



U.S. DEPARTMENT of STATE

India

Country Reports on Human Rights Practices - [2004](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 28, 2005

India is a longstanding parliamentary democracy with a bicameral parliament. The Head of State is President A.P.J. Abdul Kalam, who was elected in 2002 by an electoral college consisting of Members of Parliament (M.P.s) and members of state assemblies. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) led a multiparty coalition, headed the Government until May. Manmohan Singh was named Prime Minister following the victory in the April-May general elections of his Congress-led coalition. The general elections, and the October State Assembly elections held in Andhra Pradesh, Sikkim, Karnataka, Madhya Pradesh, Orissa, Arunachal Pradesh, and Maharashtra were considered free and fair, despite scattered episodes of violence. The judiciary is independent; however, it faced a serious backlog, and nongovernmental organizations (NGOs) alleged that corruption influenced some court decisions.

Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support. The Ministry for Home Affairs controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and provides training for senior police officers of the state-organized police forces. The civilian authorities maintained effective control of the security forces. Members of the security forces committed numerous serious human rights abuses.

The country continued its transition from a government-controlled to a largely market-oriented economy. The private sector was predominant in agriculture, most non-financial services, consumer goods manufacturing, and some heavy industrial sectors. The economic growth rate during the year was approximately 7 percent. A 1.7 percent annual population growth rate, and a population that surpassed 1.03 billion, according to the most recent census figures of 2001, compounded the country's economic problems. Wages and benefits kept pace with inflation. On December 26, a large-scale tsunami devastated parts of the southeastern coastal areas of the country, killing, injuring and displacing thousands of persons.

The Government generally respected the human rights of its citizens; however, numerous serious problems remained. Police and security forces were sometimes responsible for extrajudicial killings, including staged encounter killings, and custodial deaths. Government officials often used special antiterrorism legislation to justify the excessive use of force while combating active insurgencies in Jammu and Kashmir and several northeastern states. Security force officials who committed human rights abuses generally enjoyed de facto legal impunity, although there were numerous reports of investigations into individual abuse cases as well as punishment of some perpetrators. Other violations included: torture and rape by police and other government agents; poor prison conditions; lengthy pretrial detention without charge; prolonged detention while undergoing trial; occasional limits on press freedom and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence and legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; trafficking in women and children; discrimination against persons with disabilities; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; religiously motivated violence against Muslims and Christians; and widespread exploitation of indentured, bonded, and child labor.

Separatist guerrillas in Kashmir and the Northeast committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. They also engaged in torture, rape, and other forms of violence, including beheadings, kidnapping, and extortion.

RESPECT FOR HUMAN RIGHTS

Section 1: Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Arbitrary and unlawful deprivation of life by government forces (including deaths in custody and staged encounter killings) continued throughout the year. The highest incidences were in Uttar Pradesh, Andhra Pradesh, Bihar, Chhattisgarh, as well as states with ongoing insurgencies such as Jammu and Kashmir, Manipur, and Assam. Security forces offered bounties for wanted militants. Police and prison officers also committed extrajudicial killings of criminals and suspected criminals in a number

of states. Militant groups killed members of rival factions, government security forces, government officials, and civilians in Jammu and Kashmir, several northeastern states, and in the Naxalite belt in Eastern India (particularly Andhra Pradesh, Chhattisgarh, Jharkhand, Bihar, and West Bengal).

The Home Ministry reported that militant attacks in Jammu and Kashmir declined from the previous year, with 733 civilians (including 92 women, 32 children, and 62 political workers), 330 security force members and 976 militants killed during the year. Human rights groups alleged that security forces killed numerous captured non-Kashmiri militants from Pakistan or other countries, often after torturing them, and staged many encounters, summarily executing suspected militants and civilians believed to be assisting them. There were no widely accepted data on the magnitude of the problem of extrajudicial killings in Jammu and Kashmir, with estimates or reports largely depending on the political orientation of the source. The Jammu and Kashmir State Human Rights Commission reportedly received 15 complaints relating to custodial deaths in 2003 and 27 complaints relating to disappearances. Human rights organizations sought to clarify these cases by submitting numerous requests to Jammu and Kashmir authorities in recent years, but received inadequate and unsatisfactory responses.

According to human rights activists, press reports, and anecdotal accounts, the bodies of persons detained by security forces in Jammu and Kashmir were often returned to relatives or otherwise discovered with multiple bullet wounds and/or marks of torture. The South Asian Human Rights Documentation Center (SAHRDC) reported that the total number of such custodial deaths decreased slightly during the year, but remained a serious problem.

There were no developments in the 2003 case of Mohammed Ashraf Malik who was found dead in a forest in Jammu and Kashmir after having been in Rashtriya Rifles (a paramilitary unit) custody.

In February in the Bandipora area of north Kashmir, five civilian porters were killed after security forces allegedly used them as human shields in a gunfight with militants. The incident led to widespread demonstrations and rioting. Following the incident, Army Chief of Staff General N.C. Vij announced that the Army would no longer use civilian porters in combat operations. On March 31, State Finance Minister Muzaffar Beig and Northern Commander Lt. General Hari Prasad reported that those responsible for the incident had been punished, but gave no details.

In June, Gujarat police killed three men and a woman, alleged to have been on a mission to kill Gujarat Chief Minister Narendra Modi. The National Human Rights Commission (NHRC) asked the Director General of Police and Senior Superintendent of Police in Ahmedabad to investigate. Human Rights activists challenged police allegations that these persons were linked to this plot, but the case was never fully resolved. A Gujarat court later dismissed charges against 13 other persons implicated in this case due to lack of evidence. The family members of those killed did not file petitions claiming the killings were extrajudicial, and no action was taken against police involved in the killing.

On July 11, Manorama Devi, an alleged member of the People's Liberation Army (PLA) in the northeastern state of Manipur, died while in the custody of the Assam Rifles, a paramilitary unit in the state. Officials initially denied that Devi was killed, tortured, or raped, but the postmortem found that she died of multiple gunshot wounds, was bleeding from the vagina, and had a perforated liver and gall bladder, among other injuries, and forensic tests detected semen stains on her clothes. The case prompted demonstrations and riots, and led to a serious deterioration of the security situation in Manipur. The National Commission for Women (NCW) publicized the case, and the Army ordered an investigation; however, by year's end, culpability for her death had not been established.

Prosecutions in custodial death cases were often subject to lengthy delays. In February, for instance, a Delhi police constable was sentenced to life imprisonment for a custodial death at Lahori Gate police station that occurred 12 years earlier.

The national and Jammu and Kashmir state governments took initial steps to respond to charges that authorities have not been transparent in their treatment of human rights violators, and that those who committed abuses enjoyed impunity. In March, the press reported that the Jammu and Kashmir Government had opened investigations into 37 cases of alleged deaths in custody and disappearances reported since the Government took office in 2002. In April, Chief of Army Staff General N.C. Vij reported that of 1,340 allegations of human rights abuses reportedly committed from 1990-2000 in Jammu and Kashmir, 33 were substantiated by evidence, and 71 personnel had been punished. In May, the NHRC reported that during the past 14 years of insurgency in Jammu and Kashmir, the Army had punished 131 of its personnel for human rights violations, giving 2 life sentences and 33 others jail terms of 11 to 12 years, dismissing 11 personnel from the military, and ordering various other punishments to the remainder.

A Senior Superintendent of Police in Jammu and Kashmir who was suspended in July 2003 for allegedly falsifying the DNA samples of five civilians killed in 2000 in staged encounters in Chhattisingpora, Anantnag District, appealed the decision to the Central Administrative Tribunal. By year's end, there were no developments in this case.

According to local press reports, the number of persons killed in encounter deaths varied widely throughout the country; however, members of the security forces were rarely held accountable for encounter killings.

Human rights activists maintained that in cases of illegal conduct, the Government increasingly substituted financial compensation to victims' families for punishment of security officers. In some instances, victims or their families distrusted the military judicial system and petitioned to have their cases transferred from a military to a civil court. The NHRC has no

jurisdiction over any courts, including military courts.

In May, the Ministry of Home Affairs ruled in favor of the NHRC, which had challenged the military position that its forces were exempt from paying compensatory damages for human rights violations, and ordered \$4,200 (Rs 200,000) compensation be paid to the next of kin of two people killed by a Border Security Forces (BSF) guard in Rajasthan in 2000.

Although the authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC, the Association of Parents of Disappeared Persons (APDP) reported that as of June, there were 54 custodial deaths since the Jammu and Kashmir state government assumed office in November 2002.

According to the NHRC, by August, 45 deaths in police custody and 438 deaths in judicial custody occurred throughout the country. Uttar Pradesh ranked the highest, with 6 custodial deaths.

During the year, the killing of civilians continued during counterinsurgency operations in Jammu and Kashmir. Human rights activists stated that accurate numbers were not available due to limited access to the region. In 2003, the Home Ministry reported 28 civilians killed, between April and June, and Amnesty International (AI) alleged that over 340 were killed during the year.

The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remained in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura, where active secessionist movements existed. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, and the AFSPA provides search and arrest powers without warrants (see Section 1.d.). Human rights groups alleged that security forces operated with virtual impunity in areas under the Act.

Accountability by the Jammu and Kashmir Government remained a serious problem. Indian human rights groups estimate that 30,000-35,000 persons have died during the conflict in Jammu and Kashmir, but there were no reliable estimates of the number of deaths resulting directly from abuses. Security forces have committed thousands of serious human rights violations over the course of the 15-year insurgency, including extrajudicial killings, disappearances, and torture (see Sections 1.b. and 1.c.).

In December 2003, the Jammu and Kashmir Chief Minister reported that there had been 8 custodial deaths in the state during the year, compared to 11 in 2001. According to the authorities, many died from natural causes aggravated by poor prison conditions (see Section 1.c.).

Human rights groups noted that police officials often refused to turn over the bodies of dead suspects in cases of suspected staged encounters. The bodies of dead suspects were often cremated before their families could view them. In 2002, the Supreme Court ordered the central government and local authorities to conduct regular checks on police stations to ascertain the incidence of custodial violence; however, the overwhelming majority of police stations failed to comply. There were reports of deaths in custody resulting from alleged torture or other abuse.

Deaths in custody were common both for suspected militants and criminals. The Home Ministry reported that, nationwide, deaths in custody had increased from 1,340 in 2002 to 1,462 by the end of 2003. According to the NHRC, state governments had not investigated at least 3,575 previous deaths in custody cases.

On August 10, police officials initially admitted that Khwaja Yunus, accused of a December 2, 2002, terrorist bombing in Ghatkopar, a suburb of Mumbai, died while in police custody in January 2003. An eyewitness saw police officers beating and kicking Yunus shortly before his disappearance. Police later maintained that Yunus escaped from police custody and is currently at large. In August 18 testimony to the state assembly, the Maharashtra Home Minister stated that there had been 439 custodial deaths in the state in the past 3 years, including 58 deaths in police custody and 381 in judicial custody.

Human rights activists reported during the year that compliance varied from state to state regarding a directive issued by the NHRC in 1993 requiring district magistrates to report all deaths in police and judicial custody to the commission. The NHRC regarded failure to do so as an attempted cover-up. The NHRC has not released information on how many or which states have complied with the directive; however, no state fully complied with this order at year's end.

During the year, a few state governments took some measures regarding custodial deaths. The Director General of Police for the state of Punjab reported that his agency investigated the deaths of five persons in police custody and determined that police were innocent in three cases; he initiated criminal proceedings for the other two.

In June, a court in Calcutta sentenced five police officers to life imprisonment for killing a traffic sergeant who had protested their harassment of a young girl in December 2003.

In Jammu and Kashmir, members of paramilitary forces who succeeded the former Special Operations Group (SOG) of the state police continued to commit human rights violations. In an attempt to reduce these violations, and to fulfill campaign pledges, the state government in 2003 subordinated SOG members to regular police units, although politicians and others continued to refer to them as "SOG." Jammu and Kashmir police officials reported that they also charged 53 former SOG members with human rights violations and removed 25 of them from duty since the state government took office in November 2003. Despite the

purported integration of former SOG personnel into regular police units, during the year, former SOG personnel continued to operate in cohesive anti-insurgency units, and regular reports of human rights violations by its members persisted. For example, on August 19, a unit consisting of former SOG personnel, in coordination with the BSF, raided the house of Manzoor-ul Islam, a suspected militant, and allegedly took him into custody. The unit later reported him killed in an encounter the following day.

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir. Countermilitants were former separatist guerrillas who surrendered, but who were permitted by the Jammu and Kashmir Government to retain their weapons and paramilitary organization and were inducted into police auxiliary units. Government agencies funded, exchanged intelligence with, and directed the operations of countermilitants as part of the counterinsurgency effort.

Countermilitants occasionally searched persons at roadblocks (see Section 2.d.) and were present in some rural areas of the Kashmir Valley; their number has declined substantially since the 1990s. The Jammu and Kashmir Government, through its sponsoring and condoning of extrajudicial countermilitant activities, was responsible for killings, abductions, and other abuses committed by these groups. According to a human rights activist in Jammu and Kashmir, there were between 300-400 countermilitants operating in the region during the year.

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see Section 3). Separatist guerrillas attempted to kill numerous senior politicians, making several attempts against Chief Minister Mufti Mohammed Sayeed, People's Democratic Party leader Mehbooba Sayeed, National Conference President Omar Abdullah and his father, former Chief Minister Farooq Abdullah, as well as many ministers and dozens of other rank-and-file activists in an array of political parties. By the end of the year, the number of politicians and political workers killed by militants and terrorists exceeded 30.

Countrywide, there were allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgency (see Sections 1.b., 1.c., 1.d., and 1.g.).

The number of persons killed and injured in militant violence in the northeastern states was significant. Numerous encounters involving security forces and militant organizations such as the United Liberation Front of Asom (ULFA), the National Democratic Front of Bodoland (NDFB), and the United People's Democratic Solidarity (UPDS) continued.

The press published frequent reports of gruesome killings of civilians by militants in Jammu and Kashmir, including beheadings, amputation of limbs, and other atrocities. In January, militants beheaded photographer Farooq Ahmad Mirza after shooting his wife in the presence of their minor sons in Pulwama district in south Kashmir (see Section 2.a.).

In the northeastern states, insurgency and ethnic violence continued to be a problem. According to human rights activists and journalists during the year, a few Naxalites (Maoist guerrillas) in eastern and central parts of the country (including Madhya Pradesh, Andhra Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, parts of Uttar Pradesh, and Maharashtra) who surrendered, retained their weapons and worked for the police as anti-People's War Group (PWG) officers. Human rights groups alleged that police used former Naxalites to kill current Naxalites and human rights activists with close links to the PWG, although police attributed such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year.

Militant groups in the Northeast continued to attack civilians. For example, members of ULFA took responsibility for an August 15 Independence Day bomb attack in the town of Dhemaji, which killed 13 civilians, including 10 schoolchildren (see Section 1.g.).

b. Disappearance

There were no confirmed reports of politically motivated disappearances due to action by government forces; however, scores of persons disappeared in strife and militancy-torn areas during the year.

In June 2003, the Jammu and Kashmir government reported that 3,931 persons had disappeared in the state since the militancy began in 1990. This figure contrasted with that given by the Association of Parents of Disappeared Persons (APDP), which put the number at more than 8,000. In May, the Government reported that many of those listed as missing by the APDP in March of 2003, had joined insurgent groups, had been killed, were in custody, or were in Pakistan.

In May, an army patrol in Jammu and Kashmir arrested Mohammad Hussain Ashraf, who reportedly had a mental disorder, after he ran away from the soldiers. The soldiers reportedly beat Ashraf before taking him to Khrew army camp. Later the same day, the man's parents learned of his detention and went to the camp to secure his release. Army personnel told them he was in their custody and would be released. On June 7, the Army reportedly stated that they had released Ashraf after a short detention, and at year's end his whereabouts were unknown.

The Jammu and Kashmir State Human Rights Commission instructed the police to furnish all details about a youth, Wasim Ahmad Rather, who disappeared on June 14 in the Anantnag region of the state. The child's parents asserted that police had

arrested him, and they had not seen him since. The police denied that they arrested the boy. No further action had been taken at year's end.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states, several hundred persons were held by the military and paramilitary forces in long-term unacknowledged detention in interrogation centers and transit camps intended only for short-term confinement. Human rights activists feared that many of these unacknowledged prisoners were subjected to torture and some were killed extrajudicially (see Sections 1.a. and 1.c.).

The Government maintained that screening committees administered by the state governments provided information about these detainees to their families. However, other sources indicated that families could only confirm the detention of their relatives by bribing prison guards. In 2002, the state government of Jammu and Kashmir implemented a screening system to review detention cases and release numerous detainees (see Section 1.d.). In March 2003, the Joint Screening Committee in Jammu and Kashmir recommended the release of 24 persons, of whom 17 were released. According to press reports, during February and March, the government released 118 separatist detainees in conjunction with its dialogue with the moderate faction of the All-Parties Hurriyat Conference (APHC), an alliance of political, social, and religious organizations created to further the cause of Kashmiri separatism.

Many detainees were released under the state's 1978 Public Safety Act, including 24 in January, 34 in February, 12 in March, 2 in April, and 92 in June.

On February 27, the Government released 86 Muslims in Kashmir who had been detained under the Prevention of Terrorism Act (POTA).

In Punjab, the pattern of disappearances prevalent in the early 1990s ended; however, during the year, the Government failed to hold accountable hundreds of police and security officials for serious human rights abuses committed during the counterinsurgency of 1984-94, despite the presence of a special investigatory commission. No action was taken and no new information was available on the 634-page report filed in June 2003 by the Punjab-based human rights organization, Committee for Coordination of Disappearances in Punjab (CCDP), which documented 672 cases of disappearance stemming mostly from the period of the counterinsurgency. The Government took no action in any of these cases, and none was expected

During the year, no action was taken by the Central Bureau of Investigation (CBI), which claimed to be actively pursuing charges against dozens of police officials implicated in the 1980s, for mass cremations in which it is alleged that police in Amritsar, Majitha, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants. The militants were allegedly abducted, extrajudicially executed, and cremated without the knowledge or consent of their families during the height of Sikh militancy in Punjab.

During the year, the NHRC continued to investigate the 2,097 cases of illegal cremation that occurred between 1984 and the early 1990s. The NHRC has asked families whose members have disappeared to come forward and provide evidence. It has not yet released its findings, and no significant progress was made in identifying the cremated bodies or bringing to justice those responsible for the killings. During the year, families of victims in other cities in Punjab petitioned the NHRC for redress, and a small percentage received a response in July. The NHRC announced an award of approximately \$5,500 (Rs. 240,000) to 109 families who had relatives cremated, without admitting liability. The police admitted that the victims had been in custody, but maintained that a number of the detainees were killed in crossfire after militants attacked a police convoy searching for hidden weapons.

There were credible reports that police throughout the country often did not file legally required arrest reports, resulting in hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, countering that there were no records of arrest.

Militants in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, seek the release of detained comrades, and extort funds. During the year, numerous railroad and construction company contractors were kidnapped for ransom in Jammu and Kashmir. The employers of the kidnapped accused police of turning a blind eye to the problem. Some kidnapped persons in Jammu and Kashmir and the Northeast were murdered (see Sections 1.a. and 1.g.).

On September 30, in Srinagar, unidentified gunmen abducted and killed Mohammad Rafiq Shah, President of the Jammu and Kashmir Peoples Liberation League, and a leader of a moderate faction of the APHC.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture, and states that confessions extracted by force generally are inadmissible in court; however, authorities often used torture during interrogations and extorted money as summary punishment.

Because many alleged torture victims died in custody, and others were afraid to speak out, there were few firsthand accounts, although marks of torture often were found on the bodies of deceased detainees. The prevalence of torture by police in detention facilities throughout the country was reflected in the number of cases of deaths in police custody (see Section 1.a.). Police and

jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses under the Penal Code, the Government often failed to hold them accountable. According to AI, torture usually took place during criminal investigations and following unlawful and arbitrary arrests.

In May, in Ambedkarnagar, Uttar Pradesh, police arrested a day laborer and tortured him when he failed to pay a \$1000 (Rs. 50,000) bribe. According to media reports, police admitted the victim to the hospital under a false name after injecting him in the rectum with petrol. Police also threatened to harm his family if he reported the incident. The Delhi High Court filed a case against police when it learned of the matter and called the Deputy Chief of Police to testify. The case was ongoing at year's end.

In July, the NHRC requested a report from Punjab's Inspector General of Prisons (IGP) after a man incarcerated in Amritsar's Central Jail claimed he was branded on his back by the Deputy Superintendent and other prison officials when he demanded water and better treatment. Doctors found fresh scars on his back that had been inflicted with hot iron rods. No action was taken at year's end.

In July, the Punjab State Human Rights Commission (PSHRC) required police officials to submit a report concerning the case of a prisoner in police custody who was allegedly made to sign four blank confession forms after repeated torture by electric shock.

Also in July, the state unit of the People's Union for Civil Liberties claimed that Bihar police tortured two Nepalese insurgents, one of whom was female, by forcing them to stand naked before a mirror for two days and threatening to inject them with the HIV/AIDS virus. Authorities claimed that the accusations made against police were false and no further action was taken.

There also were incidents in which police beat journalists (see Section 2.a.), demonstrators (see Section 2.b.), and Muslim students (see Section 2.c.). Police also committed abuses against indigenous people (see Section 5).

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty filing complaints, as local police allegedly were instructed not to open a case without permission from higher authorities. In addition, under the Armed Forces (Jammu and Kashmir) Special Powers Act of 1990, no "prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers of the act," without the approval of the central Government. The Act gives security force personnel the authority to shoot suspected lawbreakers and those disturbing the peace, and to destroy structures suspected of harboring militants or containing weapons. Human Rights organizations alleged that this provision allowed the security forces to act with virtual impunity (see Section 1.d.).

The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. A higher incidence of abuse appeared credible, given other evidence of abusive behavior by police, and the likelihood that many rapes went unreported due to the victims' shame and fear of retribution. However, legal limits placed on the arrest, search, and police custody of women appeared to effectively reduce the frequency of rape in custody. There were no recent NHRC data on the extent of this problem.

In August, two soldiers accused of rape in Kokrajhar, Assam, in June 2003 were dismissed from service and sentenced to 10 years rigorous imprisonment.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the Northeast as a means of instilling fear among non-combatants in insurgency-affected areas (see Section 1.g.). However, these incidents were not included in NHRC statistics, as the NHRC does not have direct investigative authority over the military.

In October, the Army reported that it would conduct an inquiry into the case of an alleged gang rape of a girl in Srinagar, Jammu and Kashmir, for which six persons, including two security personnel, were arrested. At year's end, no action was taken. In November police registered cases for another two rapes, one against seven Army personnel who allegedly gang-raped a woman in Anantnag in South Kashmir, and the second against a Major Rehman who allegedly raped a mother and a daughter during a search operation near Handwara in Kashmir. In December, court martial proceedings were initiated against Major Rehman. By year's end, the case had not been decided.

In July, the NCW directed all asylums to check the legitimacy of insanity certificates after reports of husbands using these certificates as grounds for divorce against their wives. The move was directed after a resident psychiatrist at the Agra Mental Asylum was accused of issuing false insanity certificates for this purpose, and the failure of the Agra police to file a First Information Report (FIR) within the required time period.

During the year, the Government gave the NHRC the authority to recommend interim compensation in cases relating to human rights abuses by the armed forces. Officers of the rank of colonel were designated at the command, corps, division and counter-insurgency headquarters to monitor human rights issues. According to the NHRC, there were 1,039 cases of human rights violations by the security forces from 1990-1999, an average of 109 per year. The NHRC reported a marked decline since that period, with 16 cases reported in 2003, and 4 in the current year. The NHRC reported that it registered 756 cases against the military, 172 against paramilitary forces and 109,902 against the police since 2001.

Prison conditions were harsh and life-threatening. Prisons were severely overcrowded, and food and medical care inadequate. For example, the Mumbai-based Criminal Justice Initiative reports that there were 3,000 inmates in Bombay Central Jail, which has an actual capacity of 800. Sources claimed that between 60 and 75 percent of all inmates were awaiting trial, contributing to overcrowding, and that as many as 65 percent of all arrests were false, indicating that a large percentage of those imprisoned could be innocent (see Section 1.d.).

In May, the Jammu and Kashmir Bar Association released a report accusing state jail authorities of providing inadequate food to inmates and torturing them. The report alleged that this contributed to malnutrition, organ failure, and insanity among prison inmates. The report also claimed that juvenile detainees were imprisoned with adult detainees, and kept under detention after being acquitted by trial courts. According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Sections 5, Trafficking, and 6.c.).

At the end of September, New Delhi's Tihar jail housed over 10,000 inmates, three times its sanctioned capacity of 3,637. In 2002, the Government announced plans to address overcrowding by building four additional prisons. In December, the Rohini District Jail, the first of the new prisons opened in Delhi, had a capacity of 1,050 prisoners. The Government reported it has acquired land for a second new jail in the capital.

According to one NHRC report, a large proportion of the deaths in judicial custody were from natural causes, in some cases aggravated by poor prison conditions (see Section 1.a.). Tuberculosis caused many deaths, and HIV/AIDS remained a serious health threat in the prison system. The NHRC's Special Rapporteur and Chief Coordinator of Custodial Justice was charged to help implement a directive to state prison authorities to perform medical check-ups on all inmates. At year's end, medical checks were only available to a few inmates.

NGO sources alleged that deaths in police custody, which occurred within hours or days of initial detention, often implied violent abuse and torture (see Section 1.a.).

Women were housed separately from men. By law, juveniles must be detained in rehabilitative facilities; however, at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from convicted prisoners.

During the year, custodial deaths at the hands of the police continued. The Assam Human Rights Commission awarded interim compensation of \$1,000 (Rs. 50,000) to the next of kin of ULFA cadre Ananta Roy, after confirming that he died in custody of Kokrajhar police in 1999. The Commission recommended that the state government prosecute the guilty police personnel. No official action was taken by year's end.

In June, the Delhi High Court found several police officers guilty in the custodial death of an auto-rickshaw driver, and fined them each approximately \$11,000 (Rs. 500,000). Criminal charges were pending.

In April, the Home Ministry reported that there were 28,765 complaints lodged against police for April 2003 and the 12-month period following, compared with 29,964 during the same period in 2001-2002. The NHRC reported there were 42 deaths in police custody during the year.

Local authorities often attempted to hide custodial killings. Despite this, the NHRC and the courts investigated those cases brought to their attention and prosecuted the perpetrators. In some cases, the courts awarded monetary compensation of between \$400 (Rs. 17,500) and \$2,200 (Rs. 96,000) to the next of kin. In some cases, NGO sources stated that relatives did not receive the compensation that was awarded.

Some NGOs were allowed to work in prisons, within specific governmental guidelines, but their findings remained largely confidential, as a result of agreements they concluded with the Government. Although custodial abuse was deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.

According to the Home Ministry's annual report, the International Committee of the Red Cross (ICRC) visited 55 detention centers and over 7,000 detainees during the year, including all acknowledged detention centers in Jammu and Kashmir, and all facilities where Kashmiris were held elsewhere in the country. However, the ICRC was not authorized to visit interrogation or transit centers, nor did it have access to regular detention centers in the northeastern states (see Sections 1.c. and 4). During the year, the ICRC stated that it continued to encounter difficulties in maintaining regular access to persons detained in Jammu and Kashmir. The NHRC received authorization from 15 states and union territories to conduct surprise visits to jails.

In a report issued in January, the U.N. Special Rapporteur on Torture commented that torture and detentions continued in the country, especially in Jammu and Kashmir, and noted the Government's continued refusal to extend him an invitation to conduct investigations.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention occurred during the year.

On September 21, President Kalam signed a bill repealing the POTA, and in December, Parliament passed legislation for its repeal. With its repeal, numerous features of POTA, including the legal definition of terrorism and specific ordinances dealing with the financing of terrorism, were folded into an existing law, the Unlawful Activities (Prevention) Act (UAPA).

POTA contains a sunset feature, which gives the Central POTA Review Committee 1 year to review all existing POTA cases. This clause allows the Government to make new arrests if they are tied to an existing POTA case. The Government can issue a new indictment on a case opened 5 years ago under POTA, against a person never previously associated with the case. It can also extend the 1-year limit for reviews. POTA was used to hold people in jail for extended periods prior to the filing of formal charges. Formal charges were necessary, but persons could be held without pretrial proceedings for up to 3 months without a formal charge, and an additional 3 months when approved by a judge. Approvals were regularly given in POTA cases. The law also provided that persons who did not disclose information to the authorities about terrorist activities as defined by POTA could be arrested and charged with an offense, and provided the Government extensive powers to ban terrorist organizations and seize their assets. POTA provided for special courts to try offenses, placed the burden of proof at the bail stage on the accused, allowed confessions made to a police officer to be admissible as evidence, extended the period of remand from 15 to 60 days, and set mandatory sentences for terrorism-related offenses. Human rights groups said POTA gave the Government boundless authority, without holding it accountable for its actions. Human rights activists reported that the revised UAPA contains important improvements over the POTA. For example, it does not allow coerced confessions to be admitted as evidence in court.

NGOs and human rights activists alleged that police often committed human rights violations with impunity, and that police corruption was pervasive. Many government officials acknowledged this as well. The NHRC reported that the majority of complaints it received were against police. Although the Malimath Committee on Judicial Reform issued a report in 2003 that proposed some police-recommended reform, measures had not been implemented at year's end. Some human rights activists maintained that the Committee's main goal was to increase arrests and prosecutions instead of protecting the rights of the accused. Punjab Director General of the Police A.A. Siddiqui reported that police had received 17,000 complaints during the year, including 6,261 from the Punjab State Human Rights Commission, 376 from the NHRC, and 46 from the NHRC for Scheduled Castes and Scheduled Tribes. The media reported that 59 police officers were found guilty of violating human rights in Punjab during the year.

The Constitution provides detainees the right to be informed of the grounds for their arrest, representation by legal counsel, and, unless held under a preventive detention law, to be arraigned within 24 hours of arrest, at which time the accused must either be remanded for further investigation or released. However, thousands of criminal suspects remained in detention without charge, adding to already over-crowded prisons.

The Constitution provides arrested persons the right to be released on bail and the law provides for prompt access to a lawyer; however, in cases of arrest under special security legislation, neither bail nor prompt access to a lawyer were always granted in practice. Court approval of a bail application is mandatory if police do not file charges within 60 to 90 days of arrest. In most cases, bail was set between \$11 (Rs. 500) and \$4,500 (Rs. 200,000).

Although the Government allowed the Terrorism and Disruptive Activities Act (TADA) to lapse in 1995, the South Asia Human Rights Documentation Center reported that more than 1,000 persons remained in detention awaiting prosecution under the law, and that cases opened under TADA continued through the judicial system. This remained a problem in Jammu and Kashmir.

TADA courts curtailed many legal protections provided by other courts. For example, defense counsel was not permitted to see prosecution witnesses, who were kept behind screens while testifying in court, and confessions extracted under duress were admissible as evidence (see Section 1.c.).

In February, Government agents detained former MP Simranjit Singh Mann under TADA for making "an inflammatory speech" in 1991 appealing for a separate state of Khalistan. Mann was released but re-arrested on March 23 after a rally in which he voiced opposition to the then-Deputy Prime Minister L.K. Advani. Mann was released 2 days later.

In September, human rights activists demanded that the Bihar Government withdraw all cases filed against landless laborers and workers under TADA. The activists also asked for the release of 14 people sentenced to life imprisonment and 14 others sentenced to death under TADA. The Bihar Government had not responded to the allegations by year's end.

Police routinely resorted to arbitrary and incommunicado detention, denied detainees access to lawyers and medical attention, and used torture or ill treatment to extract confessions (see Section 5.).

In March 2003, NGOs charged that scores of Muslims were illegally detained in Gayakwad Haveli Police Station in Ahmedabad by Crime Branch police, reinforcing concerns about discrimination against Muslims in the state of Gujarat. Many of those arrested were charged under the POTA, although the specific infractions were not released. Most of those arrested remained in jail at year's end.

Throughout the year, authorities in Jammu and Kashmir repeatedly detained Kashmiri separatist leaders such as Shabir Shah, Chairman of the Jammu and Kashmir Democratic Freedom Party, Yasin Malik, Chairman of the Jammu and Kashmir Liberation Front (JKLF), and Syed Ali Shah Geelani, Chairman of the hardline faction of the APHC, for short periods of time, ranging from several hours to 1 day, usually to prevent their participation in demonstrations, funerals, or other public events. Police released

them soon thereafter.

On August 8, the Supreme Court rejected a plea by Maulvi Hussein Umarji to be released from custody. Umarji, accused of participating in the February 2002 attack on a passenger train in Godhra, argued that under POTA he could only be held for 30 days, but the Court ruled that he could be held for up to 180 days without formal charges.

Although there were many instances of arbitrary arrest and detention, there were cases during the year in which a higher court freed people who had been arrested arbitrarily. For example, on May 8, a POTA court freed Ghulam Moinuddin Bhat, a Kashmiri separatist associated with the Jamaat-I-Islami, who had been arrested in 2003 in New Delhi for allegedly promoting militant activities. On August 10, the Government of Tamil Nadu withdrew an allegedly politically motivated POTA case against Marumalarchi Dravida Munnetra Kazhagam (MDMK) General Secretary Vaiko and eight other related cases. Vaiko and the others had been arrested by Tamil Nadu authorities for making positive statements about the Sri Lankan Tamil terrorist group, Liberation Tigers of Tamil Eelam (LTTE), at a public rally in 2002. However, the POTA court refused to accept the Government's withdrawal of charges, and those arrested remained in detention at year's end.

In July 2003, the Home Ministry disclosed that of 702 persons arrested under POTA since its enactment, 217 were arrested in the last 2 years and 116 had gone to trial. Human rights groups alleged that the state governments invoked POTA selectively and on dubious grounds against political opponents and persons belonging to the minority communities.

On August 18, the Home Minister informed Parliament that the POTA Review Committee had received 262 complaints regarding the Act during the year. Of these, the Committee ruled in favor of the accused in 18 cases, rejected 33 complaints, and disposed of 10 for unspecified reasons. The remaining 201 were still pending at year's end.

The National Security Act (NSA) permits police to detain persons considered security risks anywhere in the country (except for Jammu and Kashmir), without charge or trial for as long as 1 year on loosely defined security reasons. NSA does not define "security risk." State governments must confirm the detention order, which is reviewed by an advisory board of three High Court judges within 7 weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and detainees must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). According to press accounts, 32 persons had been detained under the NSA during the year.

Human rights groups alleged that the NSA allowed authorities to order preventive detention at their own behest after only a cursory review by an advisory board, and that no court could overturn such a decision.

The Public Safety Act (PSA), which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge and judicial review for up to 2 years. In addition, detainees do not have access to family members or legal counsel. The Government estimated that approximately 514 persons remained in custody under PSA or related charges at year's end. In June, 92 PSA prisoners were released.

The Armed Forces Special Powers Act (AFSPA) of 1958 remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of this law was in effect in Jammu and Kashmir. Under AFSPA, the Government can declare any State or Union Territory a "disturbed area." This allows the security forces to fire on any person for the "maintenance of law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest. Security forces are also granted immunity from prosecution for acts committed under AFSPA.

In Manipur, human rights activists alleged that Manorama Devi, a suspected member of the PLA who had been detained under the AFSPA, had been raped, tortured and murdered while in custody (see Section 1.a. and 1.c.). Devi's death touched off a series of protests by an umbrella organization of 32 groups calling for the AFSPA's repeal and the arrest and prosecution of Manorama's killers. A number of domestic and international human rights groups supported these demands. The Government withdrew the Act from the Imphal municipal area, but not from the rest of Manipur and Nagaland.

The law provides a person in detention the right to a prompt trial; however, due to a severe backlog, this was not the case in practice (see Section 1.e.).

There were no reports of political detainees during the year.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, serious problems remained. The judiciary was backlogged and understaffed in most parts of the country, and in Jammu and Kashmir members of the judiciary have long been subject to threats and intimidation by guerillas and security forces. The judicial system is headed by a Supreme Court, which has jurisdiction over constitutional issues, and includes the Court of Appeals and lower courts. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The President appoints judges, who may serve until the age of 62 on state high courts and 65 on the Supreme Court.

The court system remained severely overloaded, resulting in the detention of thousands of persons awaiting trial for periods

longer than they would receive if they had been convicted. Prisoners were held for months or even years before obtaining a trial date. In July, the Ministry of Law and Justice reported that there were 29,622 cases pending before the Supreme Court, and 3,269,224 before the state High Courts. The NHRC reported that 75 percent of the country's total inmates were prisoners waiting for trial.

The Criminal Procedure Code provides that trials be conducted publicly, except in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced publicly. Defendants have the right to choose counsel independent of the Government. There are effective channels for appeal at most levels of the judicial system, and the State provides free legal counsel to indigent defendants. Defendants were allowed access to relevant government-held evidence in most civil and criminal cases; however, the Government had the right to withhold information and did so in cases it considered sensitive. In October 2003, the Delhi High Court issued new witness protection guidelines to reduce the number of witnesses who recanted their testimony under threat from defendants.

The Government does not interfere in the personal status laws of minority communities, including those laws that discriminate against women. There are separate laws for Muslims and Hindus on a number of issues. Muslim personal status law governs family law, inheritance, and divorce (see Section 5.a.).

In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's often heavy-handed anti-militant actions; and because of the frequent refusal by security forces to obey court orders.

On May 2, retired Supreme Court Justice R.P. Sethi said that there was a backlog of 75,000 criminal cases in Jammu and Kashmir. He also estimated that 45 percent of criminal cases were never reported.

Courts in Jammu and Kashmir often were reluctant to hear cases involving militant crimes and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged militants in the Jammu High Court during the year. In March, Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed announced there were 533 persons of unidentified ethnicity, 361 Kashmiris and 172 foreigners, behind bars. During the year, the Government released 85 detainees.

There was increasing concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence in 2002 following the burning in Godhra of the S-6 coach of the Sabarmati Express train, when 59 men, women and children died. In the days following the train burning, Hindu mobs killed hundreds of Muslims, displaced tens of thousands, and destroyed property.

In many cases, attempts to hold perpetrators of the Gujarat violence accountable were hampered by the allegedly defective manner in which police recorded complaints. Victims complained that police failed to register their complaints, or recorded the details in such a way as to lead to lesser charges, omitted the names of prominent people involved in attacks, and did not arrest suspects, particularly if they were supporters of the BJP. According to an affidavit submitted in January by the Government of Gujarat to the Supreme Court, out of 4,252 complaints filed, 2,032 were closed even though the abuses were substantiated. On August 17, the Supreme Court instructed the Gujarat High Court to appoint a committee of high-level police officials to re-examine the 2,032 closed cases to see whether they could be reopened. The media reported that officials who attempted to conduct a serious investigation into the incidents were promptly removed from the case. At year's end, the report on the number of cases that should be re-opened had not been submitted to the Supreme Court. The Government of Gujarat claimed that police had re-opened investigations against 5,384 people in the city of Ahmedabad and 24,683 people in the state as a whole. Only 3 cases related to the Gujarat rioting completed trial in the lower level courts by the end of the year.

In April, the Supreme Court ordered that one of the most notorious of the cases connected with the rioting following the Godhra incident, the Best Bakery Case, should be retried in a special court in Mumbai, Maharashtra. The court issued arrest warrants for 10 of the 21 accused. On November 4, the star prosecution witness refused to testify in the Mumbai court in one of a series of recantations.

At year's end, a Committee chaired by former High Court Justice U.C. Bannerjee and established by the Congress Government, was investigating the cause of the train fire at Godhra, which triggered the deadly riots.

During the year, Human Rights Watch (HRW) documented how Hindu extremists threatened and intimidated victims, witnesses, and human rights activists attempting to prosecute those who committed crimes during the 2002 Gujarat riots. It reported that instead of pursuing the perpetrators of violence, the Gujarat government nurtured a climate of fear. The report alleged that the Gujarat government launched selective tax probes against some Islamic organizations to pressure Muslim witnesses to withdraw murder and arson charges against Hindu nationalists. The Gujarat government denied the charge.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, at times the authorities infringed upon them. Police must obtain warrants to conduct searches and seizures, except in cases where such actions would cause undue delay. Police must justify such warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

In recent years, the Government Enforcement Directorate (ED), which is mandated to investigate foreign exchange and currency violations, searched, interrogated, and arrested thousands of business and management professionals, often without search warrants.

The Information Technology Act grants the police powers under certain circumstances to search premises and arrest individuals without a warrant. The Act specifies a 1-year sentence for persons who fail to provide information to the Government on request, and a 5-year sentence for transmitting "lascivious" material (see Section 2.a.). The Act also requires Internet cafes to monitor Internet use and inform the authorities of offenses (see Section 2.a.). At year's end, the Government had not circulated rules for implementation of this law.

The Indian Telegraph Act of 1885 authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in cases of public emergency, or "in the interest of the public safety or tranquility." The central Government and every state government used these powers during the year.

Although the Telegraph Act gives police the power to tap phones to aid an investigation, they were not allowed to use such evidence in court; however, under POTA and the UAPA, such evidence was admissible in terrorist cases, and some human rights activists noted that the new UAPA Ordinance confers additional powers on police to use intercepted communications as evidence in terrorism cases. While there were elaborate legal safeguards to prevent police from encroaching on personal privacy, there were no such protections in terrorist cases.

In January, in the Netarhat region of Jharkhand, local tribal organizations protested what they described as illegal activities by the Army.

Tribal groups claimed that the army did not provide prior notification that all villagers should vacate their homes in advance of artillery practice as required under the Maneuvers Field Firing and Artillery Practices Act. The Defense Ministry ordered the army to cease its activities only after the local inhabitants involved the governor (see Section 5).

In October, the press reported that eight states (Andhra Pradesh, Rajasthan, Orissa, Haryana, Chhattisgarh, Madhya Pradesh, Himachal Pradesh, and Maharashtra) have enacted two-child laws, which provide incentives in government jobs and subsidies to those who have no more than two children. For example, during the year, village council members in Chhattisgarh who violated this prohibition were reportedly dismissed from their positions. National health officials in New Delhi noted that the Government was unable to regulate state decisions on population issues.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts

Security force personnel enjoyed extraordinary powers under the Jammu and Kashmir Disturbed Areas Act and the Armed Forces (Jammu and Kashmir) Special Powers Act, which includes the authority to shoot suspected lawbreakers on sight and destroy structures suspected of harboring militants or arms.

There were continuing reports of civilians killed in crossfire in Jammu and Kashmir during the year. In May, according to press reports, a man was killed in crossfire between militants and security forces in the Pulwama district of south Kashmir. Troops withdrew from the area immediately following the incident, after local villagers began protesting the killing.

Members of the security forces continued to abduct and kill suspected militants, and security forces were not adequately held accountable for their actions. Reliable data on such cases were difficult to obtain.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see Section 1.d.), security forces abducted and sometimes used civilians as human shields while searching for landmines. Such abuses occurred mostly in the Kupwara and Doda districts.

During the year, tension along the Line of Control (LOC) was much lower following the November 2003 ceasefire agreement. The Home Ministry reported no cases of artillery shelling or mortar and small arms fire across the LOC or on the Siachen Glacier during the year.

Insurgents committed political killings, kidnappings, and rapes of politicians and civilians (see Sections 1.a., 1.b., and 1.c.), engaged in extortion, and carried out acts of random terror that killed hundreds of Kashmiris.

In Manipur, an active insurgency involving up to 19 militant groups resulted in the deaths of 23 civilians, 26 security forces, and 93 militants, according to the South Asia Terrorism Portal (SATP.org). For example, in April, militants from the outlawed Kanglei

Yawol Kanna Lup (KYKL) in Imphal killed two persons, including former state police chief L. Jogeshwar, triggering local panic ahead of the national parliamentary elections.

According to SATP.org, separatists in Nagaland killed 35 civilians during the year. Human rights groups observed that despite the ongoing talks between separatist groups and state government officials, and an April 28 government ceasefire, violence continued, including numerous clashes between rival Naga separatist groups. For example, on March 18, men from Nationalist Socialist Council of Nagaland-Isak-Muivah (NSCN-IM) abducted two Nationalist Socialist Council of Nagaland-Khaplang group (NSCN-K) guerrillas allegedly to extort money, and on June 30 a suspected NSCN-K member killed a member of the rival NSCN-IM faction.

Killings of security force members by militants in Jammu and Kashmir declined to 330 for the year, according to the Home Ministry.

Militants also targeted government officials. In January, unidentified persons threw 2 grenades at a mosque in the Pir Mitha area of Jammu, killing 2 government officials and injuring 19. In February, an unidentified militant killed Deputy Inspector General of Police Mohammed Amin Bhat at a mosque in Srinagar. On February 27, one person was killed and eight others were injured in a failed attempt on the life of Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed at a public meeting in Beerwah in South Kashmir. On March 30, governing People's Democratic Party (PDP) President Mehbooba Sayeed escaped after militants opened fire on her motorcade on the Pahalgam-Anantnag road.

In September, the Army found a woman in Doda district of Jammu and Kashmir who had been raped and tortured by militants for 25 days. The militants reportedly targeted her because her brother, a former militant, had surrendered to authorities. The militants cut off her ears and nose and left her for dead in a forest. The army adopted the woman as a humanitarian case and paid for reconstructive surgery (see Section 1.c.).

During the year, militant activities in the East and Northeast also claimed many lives through the use of ambushes and time bombs on roads, on railway tracks, and in trains. For example, on April 8, a landmine set by Naxalites in Jharkhand killed 5 policemen and seriously injured over 10 other persons. In Tripura in August, the National Liberation Front of Tripura killed six shopkeepers abducted for ransom on June 14. Another 18 reportedly were released after their families paid the ransom.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some limitations. Under the Official Secrets Act, the Government may restrict publication of sensitive stories or suppress criticism of its policies, but no cases were reported during the year.

The Press Council is a statutory body of journalists, publishers, academics, and politicians, whose chairman is appointed by the Government. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish articles or details that might incite caste or communal violence. The Council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings carried no legal weight.

A vigorous press reflected a wide variety of political, social, and economic beliefs. Independent newspapers and magazines regularly published and television channels broadcast investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses. Most print media were privately owned. In the electronic media, 80 percent of the television channels were privately owned. Government-controlled radio remained the main source of news for much of the population.

Foreign media was, for the most part, allowed to operate freely, and private satellite television was distributed widely by cable or satellite dish, providing serious competition for Doordarshan, the government-owned television network. Doordarshan frequently was accused of manipulating the news in the Government's favor; however, some privately-owned satellite channels also promoted the platforms of political parties their owners supported.

The Government often held foreign satellite broadcasters, rather than domestic cable operators, liable under civil law for what it deemed was objectionable content on satellite channels--notably, tobacco and alcohol advertisements.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legalized in 2000, but licenses only authorized entertainment and educational content. Authorities did not permit privately owned radio stations to broadcast news.

In June, the Government claimed that the publication of a domestic edition of the International Herald Tribune (IHT) by the Deccan Chronicle Press violated a 1955 Cabinet Resolution that disallowed a local edition of any foreign newspaper and banned the registration of foreign newspaper titles. The IHT, however, continued to be published daily in Hyderabad, Andhra Pradesh.

The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on a range of issues, including government abuses. In October, the Government permitted the first delegation of Pakistani journalists to visit Jammu and Kashmir in more than 50 years. The correspondents, on a trip sponsored by the South Asia Free Media Association, had access to the entire spectrum of government and separatist opinion.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the publication of material likely to incite murder or any act of violence; however, newspapers in Srinagar reported in detail on alleged human rights abuses by the Government and regularly published press releases of separatist Kashmiri groups.

In September, the Government renewed its permission for the Arabic-language satellite news channel, Al Jazeera, to transmit. The Government had halted Al Jazeera broadcasts in 2002 to express displeasure with its reporting on the February-March 2002 riots in Gujarat and the insurgency in Jammu and Kashmir.

Also in September, authorities arrested a photojournalist with an Urdu newspaper in Srinagar for allegedly passing sensitive defense-related material to Pakistan. There was no action in this case at year's end.

Ethnic or religious groups carried out most attacks on members of the media. In June, radical elements of the BJP attacked the Mumbai office of the newspaper Aapla Mahanagar, assaulted the editorial staff and damaged office equipment in response to an article written against a Hindu religious sect. In August, in Mumbai, alleged Muslim fundamentalist activists attacked the editor of a Hindi language newspaper, Sajid Rashid, with knives and seriously injured him. They charged that he had insulted Islam by criticizing the custom of Triple Talaq, which allows a man to divorce his wife by stating, "I divorce you" three times. Mumbai police filed charges in the case, but the assailants were at large, and the investigation remained open at year's end.

In August, Hindu nationalist activists from the Shiv Sena injured the editor of the Mumbai-based Marathi daily Mahanagar in retaliation for remarks allegedly made against Shiv Sena leader Narayan Rane in a private conversation.

Political tensions were also a cause of attacks on media outlets. For example, in August, party activists from the Pattali Makkal Katchi (PMK), a South Indian regional party, attacked and damaged the offices of Dinamalar, a Tamil language daily.

Violence against the press and intimidation by militant groups in Jammu and Kashmir caused significant self-censorship there by journalists, who were reluctant to report on events, according to journalists based in the state. In March, security forces killed two militants who attacked a building housing the Press Information Bureau and the State Information Department in Srinagar who had tried to detonate explosives. In April, a Pakistan-based Islamist militant group, Tehrik-ul-Mujahadeen, threatened journalists who wrote articles criticizing anti-India militants.

During the year, the threat of losing government revenue contributed to self-censorship by smaller media outlets that heavily relied on state government advertising.

Authorities occasionally beat, detained, and harassed journalists. In April, the Journalists Union of Assam and the Journalist Action Committee alleged that police ordered a journalist and several other people to kneel down in the road during a routine traffic stop. No action was taken against police.

In 2003, the State Assembly of Tamil Nadu ordered the arrest of a number of journalists associated with The Hindu, an English language daily, for allegedly engaging in a "breach of privilege" of the House. The journalists contested the arrest, and in July 2003, the courts ordered a stay on their arrest, until a higher court was able to decide the issue. The petition filed by The Hindu in the Supreme Court regarding limits on freedom of expression by the press was pending at year's end; however, the arrest warrants against the journalists were dropped.

The Government maintained a list of banned books that may not be imported or sold in the country. In some cases, such as Salman Rushdie's "Satanic Verses," censors claimed the book aggravated communal tensions. In March, the Maharashtra state government filed criminal charges against a foreign professor for making slanderous remarks against the 17th century Indian warrior Shivaji and his mother in a book. The Maharashtra state government banned the professor's book in 2003.

A government censorship board reviewed films before licensing them for distribution. The board censored material it deemed offensive to public morals or communal sentiment.

In June, the country's Censor Board granted a censor certificate, allowing public viewing to the film "Aakrosh" (Lament) after the Mumbai High Court ruled in favor of the film's producer. In 2003, the Board had denied a certificate to the film, which covered the 2002 Gujarat riots, effectively preventing public showings.

The Information Technology Act provides for censoring information on the Internet on public morality grounds, and it considers "unauthorized access to certain types of electronic information" a crime. According to Reporters Without Borders, this law theoretically allowed police officers to search the homes or offices of Internet users at any time without a warrant, but that claim has not been tested in court. The Government retained the right to limit access to the Internet, specifically information deemed detrimental to national security.

In January 2003, the Ministry of Human Resources Development (HRD) passed strict academic guidelines to regulate academic partnerships between local and western universities and academics, in line with Hindutva philosophy. The guidelines, issued to all central universities, required HRD permission to organize "all forms of foreign collaborations and other international academic exchange activities," including seminars, conferences, workshops, guest lectures, and research. These guidelines remained in force during the year.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected this right in practice. The authorities sometimes required permits and notification prior to holding parades or demonstrations, but local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where the local government routinely denied permits to separatist parties for public gatherings and detained separatists engaged in peaceful protest. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

In February in Baramulla, Jammu and Kashmir, one person was killed and two wounded when police opened fire to disperse demonstrators protesting against human rights abuses allegedly perpetrated by security forces.

On August 1, police fired tear gas at a procession of citizens protesting human rights abuses committed by security forces under the AFSPA in Imphal, Manipur, wounding 15 protestors. The Manipur government had banned the demonstration. On August 4, police fired into another procession in Imphal, wounding 18. These protests exacerbated longstanding tensions between the civilian population and the security forces in Manipur.

On August 4, police in Bihar fired into a crowd that had gathered outside a government office expecting flood relief, killing a 14-year-old boy. Police officials claimed that the police fired in self-defense after the mob went on a rampage and began throwing stones. No action was taken against the police.

NGOs must secure approval from the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that this provided the Government with substantial political control over the work of NGOs and their freedom of assembly and association. NGOs alleged that some members were denied visas to enter the country.

c. Freedom of Religion

The Constitution provides for secular government and the protection of religious freedom, and the central Government generally respected these provisions in practice; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted in part from the legal constraints inherent in the country's federal structure, and in part from shortcomings in the law enforcement and justice systems. There is no state religion; however, the majority of citizens are followers of Hinduism, and this at times adversely affected the religious freedom of others. Some extremists interpreted ineffective investigation and prosecution of attacks on religious minorities as evidence that such violence may be committed with impunity.

During the year, the status of religious freedom improved; however, problems remained in some areas. While the Government took some steps to decrease attacks and bring about justice, attacks against religious minorities persisted. However, no new anti-conversion laws were enacted during the year, and Tamil Nadu repealed its anti-conversion law. Hindutva, the politicized inculcation of Hindu religious and cultural norms to the exclusion of others, remained a subject of national debate and influenced some governmental policies and societal attitudes.

The BJP, which led the central Government until May, is a Hindu nationalist party with links to Hindu extremist groups implicated in violent acts against Christians, Muslims, and tribal persons. Human rights groups and others suggested that these links influenced the BJP Government's inadequate response to acts of violence against religious minorities.

Legally mandated benefits were assigned to certain groups, including some groups defined by their religion. For example, minority institutions were able to reserve seats for minorities in educational institutions. Minority run institutions also were entitled to funding, although with restrictions; however, benefits accorded Dalits (formerly known as "untouchables") were revoked if Dalits converted to Christianity, but not to Buddhism.

The Religious Institutions (Prevention of Misuse) Act of 1988 makes it a criminal offense to use any religious site for political purposes or to use temples to harbor persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-endorsed permit before construction of any religious building may commence. The Act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic extremist groups, but the measure became a controversial political issue among religious Muslims.

In May, the Government of Tamil Nadu repealed a 2003 Ordinance banning religious conversions carried out by "force, allurement or fraudulent means."

In February 2003, Gujarat passed a "Freedom of Religion" Bill that provides penalties for conversion using allurement or force, including up to 3 years in prison and a fine of \$1,000 (Rs 50,000). Under the Act, officials must assess conversions, and the District Magistrate must give prior permission. Human rights advocates believed that the law made it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system to convert from Hinduism to another religion. Anti-conversion laws also have been in effect in Madhya Pradesh and Orissa since the 1960s, and laws against forcible conversions exist in Andhra Pradesh and Arunachal Pradesh.

In July 2003, in the first conviction under the anti-conversion law in Chhattisgarh (which was formerly part of Madhya Pradesh), Sister Brishi Ekka was sentenced to 6 months in jail for not reporting the 1996 conversion of 95 families to Christianity. Sister Ekka appealed the decision in the Chhattisgarh High Court, and later was released on bail. At year's end, the court had not heard the case, and Sister Ekka remained free on bail.

There is no national law barring a citizen or foreigner from professing or propagating his or her religious beliefs; however, India's Foreigners Act of 1946 strictly prohibits visitors in the country on tourist visas from engaging in religious preaching without first obtaining permission from the Ministry of Home Affairs. During the year, state officials continued to refuse permits to foreign Christian missionaries to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA) of 1976, which restricts funding from abroad. The Government can ban a religious organization if it violates the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodated minority religions' personal status laws; there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example, Muslim personal status law governed many non-criminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminated against women (see Section 5). Some laws, such as the repealed POTA, while not specifically written for a minority group, affected particular ethnic or religious groups. A study carried out by the NGO People's Tribunal in 10 states in July found that 99.9 percent of those arrested under POTA were Muslims.

Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities decreased overall but occurred in several states, which brought into question the Government's ability to prevent sectarian and religious violence or prosecute those responsible for it. For example, in July, in Veraval, Gujarat, an alleged sexual assault of a Hindu schoolgirl by some Muslim youth led to violence between the 2 communities, causing 2 deaths, 20 injuries, and the destruction of 40 houses and 15 shops. In August, a group of 300 alleged members of the Hindu nationalist Vishwa Hindu Parishad (VHP) ransacked a church in Orissa, demolishing statues and burning religious books and furniture. The Government reportedly took no official action against those responsible.

Christian organizations also claimed that BJP officials in some states and localities have not restrained the illegal activities of radical Hindu groups. Although Christian leaders noted a decrease in violent attacks against their community, the incidents have continued. For example, in a September incident in Kerala, Christian groups demanded an investigation, and the Government ordered a probe, after Hindu militants attacked volunteers of the Missionaries of Charity. Also in September, the Global Council of Indian Christians urged the NHRC to take action against groups inciting violence against Christians in Karnataka.

Hindu organizations frequently alleged that Christian missionaries force Hindus, particularly those of lower castes, to convert to Christianity. In Christian majority areas, there were occasional reports that Christians persecuted members of regional minorities. In Tripura, there were several reported cases of harassment of non-Christians by members of the National Liberation Front of Tripura (NLFT), a militant evangelical tribal group.

There was increasing concern about the failure of the Gujarat government to arrest and convict those responsible for the widespread communal violence that occurred in 2002 following the burning of the Sabarmati Express train in Godhra (see Section 1.e.).

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement, and the Government generally respected this in practice; however, in certain border areas special permits were required.

Security forces often searched and questioned occupants at vehicle checkpoints in the Kashmir Valley. Unlike in previous years when mass searches were common, they increasingly took place only in troubled areas or after major terrorist attacks. The Government also expanded construction of a 330-mile long security fence along the LOC in Jammu and Kashmir, causing occasional difficulties for local residents, as the security fence cut through some villages and agricultural lands. By the end of the year, construction of the fence was approaching its final stages. The Government's stated purpose for the security fence was to stop arms smuggling and infiltration by Pakistani-based militants. The Government attributed a decline in successful insurgent crossings during the year in part to the fence.

Under the Passports Act of 1967, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government used this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and members of the separatist movement in Jammu and Kashmir. In July, the Government returned the impounded passport of Mirwaiz Umar Farooq, the acting Chairman of the APHC; he traveled abroad in September and October. Only a small number of Kashmiri separatists possessed passports.

There was no law banning forced exile; however, there were no reports of forced exile during the year.

According to the Norwegian Refugee Council, a total of at least 650,000 persons have been displaced due to conflicts in Jammu and Kashmir, Gujarat, and the Northeast (see Sections 1.a., 1.c., and 1.g.). For example, there was no progress on the plight of approximately 300,000 Kashmiri Pandits (Hindu Brahmins) who had fled from the Kashmir Valley in the early 1990s after the outbreak of separatist violence and were lodged primarily in refugee camps in Jammu and New Delhi. They were unable to return to their homes in Jammu and Kashmir because of serious concerns about their safety.

During the year, there were reports that Bodo-Santhal ethnic clashes continued in Assam. More than 87,000 persons lived under poor conditions in relief camps in Assam as a result of ongoing violence in the Northeast. During the year, the Government provided assistance to internally displaced persons (IDPs) and allowed them access to NGO and human rights organizations. There were no reports that the Government attacked or forcibly resettled IDPs. There were no reports of government programs specifically designed to facilitate resettlement.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees or asylum seekers. The Government provided temporary protection to certain individuals who may not qualify as refugees, under the 1951 convention and the 1967 Protocol.

In 2003, the Nepal Communist Party leader C.P. Gajurel was arrested after presenting a false passport during transit through the country. In March, through his lawyers, he asked for third country asylum. At the end of the year, he remained in judicial custody in Hyderabad.

The central Government generally denied NGOs and the office of the U.N. High Commissioner for Refugees (UNHCR) direct access to refugee camps, particularly in Mizoram, but in Tamil Nadu UNHCR was given access and maintained a local office. The UNHCR office had no formal status, but the Government permitted its staff access to refugees living in urban centers. The Government does not formally recognize UNHCR grants of refugee status (although it has provided "residential permits" to many Afghans and Burmese). The Government considers Tibetans and Sri Lankans in refugee camps to be refugees, but regards most other groups as economic migrants. However, in recent years, a number of court rulings have advanced the protection of refugees whom the Government had considered to be economic migrants. During the year, the U.N. High Commissioner for Refugees did not visit the country.

The Government provided assistance to refugee camps and resettlement areas, most notably to Tibetan and Sri Lankan Tamil refugees; however, this was applied inconsistently as it was not applied to Bangladeshi refugees because the Government considers them to be economic migrants. Refugees were permitted to work, and the state and central governments paid to educate refugee children and provided limited welfare benefits.

NGOs reported refugee complaints about deteriorated housing, poor sanitation, delayed assistance payments, and inadequate medical care in the Tamil refugee camps. The UNHCR met with Tamil refugees outside their camps in connection with UN voluntary repatriation activities, and the Organization for Eelam Refugees Rehabilitation was allowed access to some of the camps during the year. Human rights groups alleged that the Government used some of these "special camps" to hold suspected members of the LTTE terrorist organization. Human rights groups also alleged that inmates of the special camps sometimes were subjected to physical abuse and that their confinement to the camps amounted to imprisonment without trial. They alleged that several of those acquitted by the Supreme Court in 1999 of involvement in the assassination of former Prime Minister Rajiv Gandhi remained confined in these special camps. During the year, the Tamil Nadu Government initiated a review of the inmates of the special camps to determine whether any could be released. By year's end, the Government was still reviewing the situation and 23 persons remained in one camp.

There were also persons living in the country who the Government formally did not recognize as refugees. These included some 80,000 Chakma permanent residents from Bangladesh who remained in Arunachal Pradesh and Mizoram, as well as Afghans, Iraqis, and Iranians who did not possess valid national passports. The Government has chosen not to deport them, but to issue them renewable residence permits, or ignore their status. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and therefore were unable to regularize their status in the country.

In January, the U.N. High Commissioner for Refugee Rehabilitation assisted 155 Sri Lankan refugees staying at the Mandapam refugee camp in Tamil Nadu to fly back to Sri Lanka. The U.N. and Sri Lankan Government also made arrangements for the return of refugees by ship. In close coordination with the Tamil Nadu and Sri Lankan Governments, UNHCR assisted the return of 1,092 Sri Lankan refugees in 2003.

In February, police charged at a group of Tibetan Youth Congress peace marchers, including nuns, monks, and elderly persons

with sticks in the town of Dharamsala, to prevent their travel to New Delhi to participate in Tibetan Uprising Day on March 10.

In April, the All-Arunachal Pradesh Students' Union (AAPSU) protested the granting of voting rights to Bangladeshi refugees in parliamentary elections. More than 50,000 tribal Chakma and Hajong refugees had remained in the state since fleeing Bangladesh as stateless citizens beginning in 1964. In May, Chakmas voted for the first time in the Lok Sabha elections.

Members of the Santhal tribal group were non-recognized refugees in Assam, and human rights groups estimated that 200,000 lived in relief camps. The Santhals were sheltered in 100 camps in Assam; conditions in such camps were extremely poor, and the Assam Government claimed it did not have the resources to address refugee needs.

Ethnic Chins were among the non-recognized refugees in the northeastern states, particularly Mizoram. During the year, tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly resulted in the detention, interrogation, and expulsion of some persons associated with the CNF to Burma, where they credibly feared persecution. During the year NGOs estimated that 10,000 persons were expelled to Burma, where the deportees were reportedly jailed pending hearings to be scheduled before military tribunals. An estimated 40,000 to 50,000 Chins lived and worked illegally in Mizoram.

Mizoram human rights groups estimated that some 31,000 Reangs, a tribal group from Mizoram displaced by sectarian conflict, were being sheltered in 6 camps in North Tripura. Conditions in these camps were poor, and the Tripura Government asked the central Government to allot funds for their care. Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package for refugees in the relief camps. The Mizoram Government rejected these demands and maintained that only 16,000 of the refugees had a valid claim to reside in the state.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Government changed hands following free and fair national parliamentary elections in April and May. The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. State governments were elected at regular intervals except in states under President's Rule.

According to the Jammu and Kashmir Chief Secretary, there were 109 incidents of violence in the state during the campaigning and voting for the parliamentary elections in April-May; 31 civilians and 6 members of the security forces were killed, and 261 persons were injured. In April, the terrorist group Jaish-e-Mohammed (JeM) distributed hand-written notes warning residents in parts of the Kashmir Valley not to participate in the elections. JeM also demanded that Kashmiris not work on public works projects and support locally organized strikes. On April 21, militants cut off the ears of a man in Udhampur for voting in the polls. In a similar incident in Pulwama, members of the terrorist group Lashkar-e-Tayyiba cut the finger off a villager because he had voted (voters' fingers were stained with ink after they cast their ballot).

There were numerous instances of police or security forces interfering with election-related activity. In April in Srinagar, the Chairman of the Jammu and Kashmir Liberation Front (JKLF), Mohammad Yasin Malik, and the president of the Jammu and Kashmir Democratic Freedom Party, Shabir Ahmad Shah, were among six separatist leaders detained by police for campaigning against the parliamentary elections in Baramulla district in northern Kashmir. Police detained these and other activists from other groups on a regular basis prior to the polls and by-elections in October to prevent them from campaigning against the polling on the grounds that their activities would disturb the peace. As a rule, the period of detention was short, and detainees were quickly released.

There was a widespread public perception that corruption was endemic in the executive and legislative branches of government. Transparency International stated that corruption was "all-pervasive in India," that election campaigns for Parliament and State Legislature seats were often funded with unreported money, and that the Government had failed to combat the problem.

The Freedom of Information law allows citizens to request and receive documents from the Government that were considered to be in the public domain; however, the rules governing access to the information remained unclear.

There were 69 women in the 783-seat national legislature, and 7 women in the Cabinet of Ministers. Numerous women were represented in all major parties in the national and state legislatures. Constitutional amendments passed in 1992 reserved 30 percent of seats for women in elected village councils (Panchayats).

The Constitution reserved seats in Parliament and state legislatures for "scheduled tribes" and "scheduled castes" in proportion to their population (see Section 5). Indigenous people actively participated in national and local politics.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating abuses and publishing their findings on human rights cases; however, in some states and in a few circumstances, groups faced restrictions. Some domestic NGOs and human rights organizations faced intimidation and harassment by local authorities. In April, the Asian Center for Human Rights released a statement regarding alleged harassment by local authorities, including denial of government services and numerous visits from the security forces. Other human rights activists and NGOs also complained of surprise visits and other harassment by police and other government officials.

In October, Tamil Nadu police arrested Henri Tiphagne, the Executive Director of the NGO People's Watch and a member of the NHRC Advisory Committee. Tiphagne alleged that he was arrested in order to stop him from speaking at a meeting of the Campaign Against Torture. Police cited Tiphagne and his group's attempt to cross a police line illegally as the cause of his arrest.

Human rights monitors in Jammu and Kashmir were unable to move around the state freely to document human rights violations due to fear of retribution by security forces and countermilitants. Several individuals involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, have been attacked in past years and in some cases killed. No such cases were reported during the year, although one monitor was killed during the April-May polls after the car she was travelling in ran over an improvised explosive device laid by militants to disrupt the electoral process (see Sections 1.a. and 1.g.).

International human rights organizations were restricted. Foreign human rights monitors historically have had difficulty obtaining visas to visit the country for investigation purposes. For example, in November 2003, the Government failed to respond to Secretary General of AI Irene Khan Zubeida's visa application. This application followed other unsuccessful visa applications in 2002 and 2003, after an AI campaign demanded a retrial of the Best Bakery case, and after AI released a report critical of state actions during the 2002 Gujarat riots. No visas were issued to representatives of HRW. The U.N. Special Rapporteur on Extrajudicial Killings did not apply to visit the country, but the Government denied visa requests submitted in previous years.

The main domestic human rights organization operating in the country was the Government-appointed NHRC. The Commission acted independently of the Government, often voicing strong criticism of government institutions and actions. However, the NHRC faced numerous institutional and legal weaknesses, which human rights groups said hampered its effectiveness. The NHRC does not have the statutory power to investigate allegations and can only request a state government to submit a report. The NHRC was able to investigate cases against the military; however, according to a May order of the Home Ministry, it could only recommend compensation, and NHRC recommendations were not binding. Each state has its own human rights commission, and the NHRC only has jurisdiction if the state commission fails to investigate. Human rights groups alleged that state human rights commissions were more likely to be influenced by local politics than the NHRC and less likely to give a fair judgment.

Although the NHRC can issue recommendations, subpoena evidence and intervene in court proceedings, it had no enforcement powers. Some human rights activists called for an amendment of the 1993 Protection of Human Rights Act to address NHRC weaknesses.

The 1993 Protection of Human Rights Act recommends that each state establish a state human rights commission. As of October, Commissions existed in Assam, Chhattisgarh, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal. The Jammu and Kashmir state legislature established a state human rights commission, but it had no authority to investigate alleged human rights violations committed by members of the security forces. In addition to these state human rights commissions, legislative action established special courts in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh to hear human rights cases. However, the courts in Uttar Pradesh did not function, despite a 1999 court order that they be reactivated.

The NHRC was active throughout the year, highlighting human rights abuses throughout the country, and recommending compensation for victims of human rights abuses. For example, in May, the NHRC ordered the State of Kerala to pay \$222 (Rs. 10,000) to two Adivasi (tribal) youths who were allegedly detained illegally by police. Also in May, the Home Ministry authorized the NHRC to recommend relief payments to victims of human rights abuses by security forces. The decision was in response to a petition filed by widows of two men killed by a drunken BSF officer. The NHRC subsequently ordered the Government to pay the surviving families approximately \$4500 (Rs. 200,000) each.

During the year, the NHRC proposed and lobbied for schools to include a human rights course in its standard curriculum, but at year's end no schools had implemented this suggestion. The NHRC also wrote to the University Grants Commission asking it to initiate courses in human rights. Several had complied by the end of the year.

At year's end, the CCDP, a Punjab-based human rights organization, had not heard testimony involving its report documenting 672 disappearance cases currently pending before the NHRC (see Section 1.b.). In 1998, the Supreme Court had directed the NHRC to investigate 2,097 cases of illegal cremation in Punjab's Amritsar district (see Section 1.b.). However, of the 2,097 cases, the NHRC has identified and named 693 of the missing youth. In November, the NHRC held the Punjab state government liable for the deaths of 109 persons and asked the Government to pay \$5,555 (Rs. 242,725) in compensation to each of the victims' next of kin. This is the first time that compensation has been awarded for the alleged cremation in Amritsar of 2,097 unclaimed or unidentified bodies. The Punjab police have admitted that 109 persons were in its custody before they died and were cremated.

The Nanavati Commission, which was tasked with conducting a re-inquiry into the 1984 massacre of Sikhs in Delhi, did not complete its report and was issued another extension during the year. A two-member judicial commission to investigate riot-related violence in Gujarat, formed in 2002, also did not complete its report, and it too was issued an extension. It is unknown whether the findings of either report will be made public.

Section 5: Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of a person's race, sex, religion, place of birth, or social status, and government authorities worked to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, homosexuals, and national, racial, and ethnic minorities was a problem. The traditional caste system, as well as differences of ethnicity, religion, and language, deeply divided the society. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, and Tamil Nadu.

Women

Domestic violence was common and a serious problem. According to the National Family Health Survey released in 2002, 56 percent of the women said that domestic violence was justified. These sentiments led to underreporting and, combined with ineffective prosecution and societal attitudes, made progress against domestic violence difficult. According to the National Crime Records Bureau (NCRB), 49,170 cases of domestic violence were reported in the country from 1998-2001. The NCRB reported in July that the number of rapes reported in 2003 had declined from 2002, from 16,373 to 14,809, while reported molestations had decreased from 33,943 to 31,716. At year's end, the NCRB had not released new data.

The Home Ministry reported that in New Delhi during the past year, there were 130 cases of reported dowry deaths, 490 instances of rape, 489 instances of molestation of women, 1,211 instances of cruelty by the husband or in-laws, and 1,599 instances of sexual harassment. In response to the high rate of rape, New Delhi police held two workshops per week on gender sensitivity.

A major issue was the high rate of marriage of underage girls. According to the Health Ministry's Country Report on Population and Development, half of all women were married by the age of 15, although the legal age is 18.

The press reported that violence against women was increasing, although some local women's organizations attributed the increase to increased reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity. Upper caste gangs often used mass rape as an intimidation tactic against lower castes, and gang rapes often were committed as punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. The number of reported rape cases and the extent of prosecution varied from state to state.

The Government prosecuted rape cases. For example, in April, the Delhi High Court criminally charged 4 presidential bodyguards for their involvement in the October 2003 gang rape of a 17-year-old girl. In June, four men were sentenced to death for raping and subsequently murdering a 6-year-old girl in June 2003.

Providing or taking dowry is illegal under the Dowry Prohibition Act of 1961; however, dowries continued to be offered and accepted, and dowry disputes were a serious problem. In a typical dowry dispute, the groom's family harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman's death, which the family often tried to portray as a suicide or accident. Data collected by the Ministry of Home Affairs and the NCRB show that there has been an overall decline of reported dowry deaths in the last 3 years, decreasing from 6,851 in 2001 to 6,822 in 2002 and then declining further to 6,285 in 2003. The number of dowry related complaints received by the National Commission for Women (NCW) as reported by the Home Ministry also showed a decline. Dowry harassment complaints in 2002 numbered 1,074; in 2003, complaints numbered 895, and complaints numbered 453 in the current year. However, this decline may be a result of under-reporting and not a result of an overall decline. Many women allegedly committed suicide because of dowry pressure.

Usually at a disadvantage in dowry disputes, women have begun to speak out against dowry demands. For example, in August 2003, Nisha Sharma filed a complaint with the Delhi police when her prospective groom and his family asked her father for more dowry, minutes before the wedding. The potential groom was detained for 14 days while formal charges were filed for violation of the country's dowry laws. The case received considerable publicity, and her story has become part of the school curriculum in Delhi to teach young children about the problems of the dowry system.

Under the Penal Code, courts must presume that the husband or the wife's in-laws are responsible for every unnatural death of a woman in the first 7 years of marriage--provided that harassment was proven; however, in practice police did not follow these procedures consistently. In such cases, police procedures required that an officer of the rank of deputy superintendent or above conduct the investigation and that a team of two or more doctors perform the postmortem procedures.

In July, the Madhya Pradesh State Government reportedly created the position of a Chief Dowry Prevention Officer (CDPO) and required that all government servants seeking to get married produce a sworn affidavit by the bride, the groom, and his father that no dowry exchanged hands. Several other states also had CDPOs, including Kerala and Bihar, although it was unclear how

effective they were.

Cases of dowry murders were reported regularly in the media. One of hundreds of such cases was that of Amarjita Kaur, who was married to Raj Kumar in 1999, and who was burned alive in May by her husband and in-laws in Punjab because of her parents' inability to keep up with her in-laws' ever-increasing dowry-related demands. Punjab police filed murder charges against the deceased's husband and in-laws, and at year's end the cases were still pending.

In January, the media reported on the case of Jyoti Chandra, a woman in Uttar Pradesh whose husband and in-laws tried to kill her and their daughter by hitting the child's head against the floor. The woman and her daughter were rescued and taken to a hospital. Her husband Promod was in judicial custody while the rest of the family disappeared.

Sati, the practice of burning widows on the funeral pyres of their husbands, was banned in the 1800s but was still practiced in some areas. For example, in April, women's organizations in Rajasthan challenged a judgment of the special court, which acquitted 11 defendants in a Sati case from 1987. The women's groups filed a Public Interest Litigation suit after the state government declined to appeal the acquittal.

In May, in Uttar Pradesh, the in-laws of a 24-year-old woman electrocuted her, causing the amputation of her limbs, after she refused to succumb to the sexual advances of her father-in-law. No action was taken, and none was expected against her in-laws.

During the year, honor killings continued to be a problem, especially in the northern states of Punjab and Haryana. Human rights organizations estimated that up to 10 percent of all killings in those two states were so-called honor killings; however, the true number of such killings may be much higher. In September, an honor killing was reported in Rajasthan, in which a woman married a Dalit man, and was later killed by family members.

Dalit women were often singled out for harassment. For example, they were occasionally stripped naked by mobs and paraded in public for offending higher castes. In February, a 50-year-old Haryana woman had her nose cut off by a man because her son was in love with his niece, a non-Dalit. Police made no arrests in the case, stating they had no orders to do so, and none was expected.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act of 1976, the Prevention of Immoral Traffic Act of 1956, the Sati (Widow Burning) Prevention Act of 1987, and the Dowry Prohibition Act of 1961. However, the Government often was unable to enforce these laws, especially in rural areas where traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and due to court backlogs, it took an average of 6 to 7 years to conclude such cases.

The Government has taken a number of steps to assist the victims of crimes against women. These include establishing telephonic help lines, creating short-stay homes, providing counseling, occupational training, medical aid, and other services, and creating grant-in-aid schemes to provide rehabilitation rescue.

Prostitution was illegal, but commonplace. According to UNICEF, the country contained half of the 1 million children worldwide who entered the sex trade. Many indigenous tribal women were forced into sexual exploitation (see Section 6.c.).

In Lucknow in February, six tribal women were reportedly raped while working in a brick kiln. The police initially refused to lodge a complaint and alleged that three of the six victims had not actually been raped. After higher authorities intervened, police filed charges and arrested two suspects.

In recent years, prostitutes began to demand legal rights, licenses, and reemployment training. For example in June, numerous sex workers in Goa were displaced after authorities demolished their homes. The sex workers, who refused the Government's offer of rehabilitation, did so, according to the chairperson of the NCW, because they were misled. The NCW indicated that the state government was prepared to renew its rehabilitation package for the women.

The country is a significant source, transit point, and destination for many thousands of trafficked women (see Section 5, Trafficking).

Sexual harassment was common, with a vast majority of cases unreported to authorities. In June 2003, a senior Professor at the Madras Institute of Development Studies published a study in which she chronicled the hazards faced by some women in the workforce. Among these were physical and verbal abuse from male supervisors, restricted use of toilets, and the inability to take lunch breaks. In June, the NCW and the Press Institute of India jointly released a report that found that a majority of women experienced gender discrimination at their workplaces.

Often, attempts by women to report harassment resulted in further problems or dismissal. In January, a woman who was general manager of Dena Bank in Mumbai was suspended after she filed sexual harassment charges against senior bank officials. There were no developments in the case at year's end. In April, a Sahara airlines executive employee alleged in Mumbai that she suffered sexual harassment. The 29-year-old woman was subsequently fired. At year's end, the case was ongoing.

On April 27, the Supreme Court determined that a victim of sexual harassment could be awarded compensation based on the findings of an internal departmental report or investigation of the case.

The law prohibits discrimination in the workplace; however, enforcement was inadequate. In both rural and urban areas, women were paid less than men for the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. In a positive development, state governments supported microcredit programs for women that began to have an impact in many rural districts.

In February, the Government amended the divorce laws to expand the venues where a woman could file and obtain a divorce. Earlier provisions in the Hindu and Special Marriage Acts forced women to file cases in cities or towns where they resided during the marriage or where the marriage took place; however, the amendment permits divorce cases where the woman presently resides. At year's end, there were no changes to the triple talaq provisions.

In September, after a request by the All-India Democratic Women's Association, the army now allows female military recruits to be examined by female doctors if they desire. The situation arose after a female soldier was denied promotion to lieutenant when she refused to undergo gynecological tests by a male doctor.

Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women could control the family property and inheritance.

Children

The Government has not demonstrated a commitment to children's rights and welfare. The Government does not provide compulsory, free, and universal primary education. According to the Government's statistics from 2003, 165 million of the 200 million children between the ages 6-14 attend school. The upper house of Parliament failed to take any action on the constitutional amendment passed by the lower house of Parliament in 2002 that provided all children aged 6 to 14 the right to free and compulsory education provided by the State. In contrast to the Government's figures, UNICEF reported that of a primary school-age population of approximately 203 million, approximately 120 million children attended school. However, UNICEF reported that 76.2 percent of all children aged 11 to 13 years were attending school. A significant gender gap existed in school attendance, particularly at the secondary level, where boys outnumbered girls 59 to 39 percent, according to the latest government statistics released in 2001.

The Constitution provides for free medical care to all citizens; however, availability and quality were problems, particularly in rural areas.

The law prohibits child abuse; however, there were societal patterns of abuse of children, and the Government did not release comprehensive statistics regarding child abuse.

In July, the Delhi High Court ruled that victims of child abuse should not be examined in an open courtroom and should be allowed to give testimony in a cordial and friendly environment. The court also stated that a victim's father could be present and that the lawyer of the accused could not directly question the child.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often beat children. In February in Amritsar, an 18 year-old Dalit boy was shot and killed by the Principal of the Government Senior Secondary School in Chhajjalwadi. In May, a student was hospitalized after a female teacher injured his ear for coming to class without a required book. Also in May in Faridkot, 12 female students belonging to the Scheduled Castes and Tribes quit school after their teacher harassed them. No action was taken, and none was expected.

The Government was responsive to some claims of violence against children. In May, a village Panchayat in the state of Uttar Pradesh sentenced a primary school teacher to death for allegedly molesting a minor student. In June, the Tamil Nadu Child Rights Protection Network objected to the Tamil Nadu State Human Rights Commission order attesting corporal punishment in schools, and highlighted instances of torture and sexual abuse of children in schools.

Children were subjected to abuse during religious ceremonies. In August, a rare temple ritual involving burying children for a few minutes in a pit to propitiate a goddess was reported from southern Tamil Nadu despite a ban imposed on this practice in 2002. In March, activists challenged in the Mumbai High Court the ordainment of 9-year-old boy, Priyal Bagericha, as a Jain monk. Child rights activists alleged that various religious sects ordained children as young as 8 years. These activists also claimed that such children were not competent to make such a decision. According to reliable media reports, 600 such child monks existed in various Jain sects. The High Court ruled that it was acceptable for small children to become monks, as the children had the option to go back and live with their families.

The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country, and raised the age requirement for marriage for girls to 18; however, the Government failed to enforce the Act. Each year in April

and May, during the Hindu festival of Askhay Tiritiya, thousands of child marriages are performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak, and the practice was accepted in certain communities.

Trafficking and commercial sexual exploitation of children was a problem during the year (see Section 5, Trafficking). In June, social activists, journalists, and the parents of 11 girls who complained of being tortured and forced into sex slavery intervened at a circus in Uttar Pradesh after the district magistrate failed to act on their complaints. While one circus owner was arrested on charges of sexual exploitation, none of the girls, all of whom were from Nepal, were allowed to go home. In October, five minor girls were returned to the custody of the Nepali NGO Maiti Nepal after the girls were rescued from a circus in north Bihar. Legal proceedings continued at year's end against the owner of the circus under the Indian Child/Bonded Labor Act and the Minimum Wages Act, and the circus was shut down.

Female infanticide was a problem, and the traditional preference for male children continued. According to statistics, the natural pattern of child sex distribution suggested there should be 952 girls for every 1,000 boys, but in the last 2 years in Tamil Nadu, the ratio has been as low as 727 in some rural areas of the state, according to the 2001 Census. Sex selective feticide was the cause for the drop. Although the law prohibits the use of amniocentesis and sonogram tests for sex determination, NGOs in the area reported that family planning centers in the state reveal the sex of the fetus, and the Government did not effectively enforce the law prohibiting termination of a pregnancy for sexual preference. In addition, parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable. The states of Punjab, Haryana, Gujarat, Uttar Pradesh, Himachal Pradesh, Delhi, parts of Tamil Nadu, Maharashtra, and Karnataka reported particularly low male/female ratios, with Punjab reporting the lowest statewide totals in the country: 793 females to 1000 males.

Trafficking in Persons

The Constitution and the Immoral Trafficking Prevention Act (ITPA), supplemented by the Indian Penal Code, prohibit trafficking in human beings, and the law contains severe penalties for violations; however, trafficking in persons is a significant problem and some government officials participated in and facilitated the practice.

The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. Conviction for an offense committed against a child (under 16 years) results in imprisonment for 7 years to life. In the case of minors (16 to 18 years), the punishment is from 7 to 14 years. Other penalties under the Act range from minimum terms of imprisonment of 1 year for brothel keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution. During the year there were more than 170 prosecutions against traffickers. Although the police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and women in prostitution said that police actions were often a part of the problem. NGOs alleged that corruption at the enforcement level helped perpetuate trafficking.

The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor. There were an estimated 500,000 child prostitutes nationwide. More than 2.3 million girls and women were believed to be working in the sex industry within the country, and experts believed that more than 200,000 persons were trafficked into, within, or through the country annually. Women's rights organizations and NGOs estimated that more than 12,000 and perhaps as many as 50,000 women and children were trafficked into the country annually from neighboring states for commercial sexual exploitation. According to an International Labor Organization (ILO) estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the U.N. reported that an estimated 40 percent were below 18 years of age. Tribals made up a large proportion of the women forced into sexual exploitation.

The country was a destination country for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country was an origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country also served as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan, and for boys trafficked to the Gulf States to work as camel jockeys. NGOs reported that sexual exploitation of children for sex tourism increased sharply in the states of Goa and Kerala.

Trafficking of children for commercial sexual exploitation from Nepal and from Bangladesh is estimated at 6,000 to 10,000 annually from each country. Girls as young as 7 years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas of the country to the major prostitution centers of Mumbai, Calcutta, and New Delhi. NGOs estimate that there were approximately 100,000 to 200,000 women and girls working in brothels in Mumbai and 40,000 to 100,000 in Calcutta. In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a principal source of bonded labor. Calcutta was a convenient transit point for traffickers who sent Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and the Middle East.

Within the country, women from economically depressed areas often moved into the cities seeking greater economic opportunities, and once there were often forced by traffickers into prostitution. In some cases, family members sold young girls into prostitution. Extreme poverty, combined with the low social status of women, often resulted in parents handing over their children to strangers for what they believed was employment or marriage. In some instances, parents received payments or the promise that their children would send wages back home.

Many indigenous tribal women were forced into sexual exploitation. According to the Indian Center for Indigenous and Tribal Peoples, more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes driven off their land by national park schemes. A Haryana-based NGO revealed widespread trafficking of teenaged girls and young boys from poverty-stricken Assam to wealthier Haryana and Punjab for sexual slavery under the pretext of entering into arranged marriages or for forced labor.

Some boys, often as young as age 4, were trafficked to the Middle East or the Persian Gulf as jockeys in camel races. Some boys ended up as beggars in Saudi Arabia during the Hajj (pilgrimage). The majority of such children worked with the knowledge of their parents, who received \$200 (Rs 9,300) for their child's labor. Many children may also have been kidnapped for forced labor, with kidnappers earning approximately \$150 (Rs 7,000) per month from the labor of each child. The child's names were usually added to the passport of a Bangladeshi or citizen woman who already had a visa for the Gulf. Girls and women were trafficked to the Persian Gulf states to work as domestic workers or for commercial sexual exploitation.

The NCW reported that organized crime played a significant role in the country's sex trafficking trade and that trafficked women and children were frequently subjected to extortion, beatings, and rape. Although a few women were abducted forcibly or drugged, most were trafficked through false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem as well as police corruption and collusion. Although corruption was endemic, there was no known anticorruption initiative linked specifically to trafficking during the year. NGOs alleged that issues such as ignorance, a lack of political resolve, and corruption at the enforcement level perpetuated the problem.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution, and deportation. Women involved in prostitution in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swifter and fairer justice for trafficked women and children.

In many cases, police or the staff of government remand centers, where rescued victims were housed temporarily, sexually abused trafficking victims. In many cases, arrested prostitutes were quickly returned to the brothels after the brothel operators paid bribes to the authorities. In still other cases, arrested prostitutes were released into the custody of traffickers and madams posing as relatives. In these cases, the debt owed by the girls to the brothel operators and traffickers further increased, as the costs of bribing or legally obtaining release of the girls was added to their labor debt.

Some NGOs knowledgeable about the trafficking situation identified traffickers and the locations of girls being held captive by brothel owners. However, other NGOs were reluctant to trust police with this information, due to the past conduct of police in brothel raids and the likelihood that many trafficking victims would be arrested and re-victimized rather than assisted by such raids. Several NGOs have had significant successes, however, in working with police to target brothels with children.

The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the Government to provide protection and rehabilitation for these rescued girls. In addition, under the ITPA, prostitution is not a crime; the ITPA criminalizes only solicitation or engaging in sex acts in or near a public place. However, the vast majority of arrests made under ITPA were for solicitation rather than trafficking or trafficking-related crimes. During the year, this practice was changing and in Delhi and Mumbai, police reportedly no longer arrested trafficked women and children for soliciting, and in Tamil Nadu, such arrests diminished significantly. Some NGOs noted that this ambiguity, which was intended to protect trafficking victims, instead was exploited to protect the commercial sex industry.

Due to selective implementation of the ITPA, the rescue of sex workers from brothels often led to their re-victimization. Using ITPA provisions against soliciting or engaging in sexual acts, police regularly arrested sex workers, extorted money from them, evicted them, and took their children from them. Therefore, although the intention of the ITPA was to increase enforcement efforts against the traffickers, pimps, and border operators, the opposite occurred. Implementation of the ITPA's provisions for protection and rehabilitation of women and children rescued from the sex trade was improving steadily. The Government has increased police training, inter-state coordination of anti-trafficking efforts, studies and maps of trafficking patterns, cooperation with NGOs, and improved the number of shelter facilities available to rescued trafficking victims.

Over the last several years, arrests and prosecutions under the ITPA increased slightly, while all indications suggested a growing level of trafficking into and within the country. The NHRC released a comprehensive 2-year study of trafficking issues in the country. It included information on cross-border trafficking and extensive data on trafficking victims currently in commercial sex work, rescued victims, concerned NGOs, clients, and traffickers and brothel keepers, and covered all aspects of prevention, protection and prosecution. The Government, the judiciary, law enforcement and NGOs lauded the report for its thoroughness, and the Government said it would use the study's analysis to frame anti-trafficking policy changes.

The Government cooperated with groups in Nepal and Bangladesh to deal with the problem and began to negotiate bilateral anti-trafficking agreements. Training and informational meetings took place under the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) and South Asian Association for Regional Cooperation. The NHRC asked the committee that oversees the Hajj to require individual passports for children instead of allowing them to be included on that of their escort, in order to reduce trafficking of children. NHRC also advised the Government of West Bengal to make efforts to educate Muslims about child trafficking. In addition, the Central Police Academy conducted, in conjunction with local state police academies, improved training designed in part to sensitize officers to the problem of trafficking and strengthen police responsiveness to

trafficking victims. Efforts to improve NGO coordination were being made in Calcutta, where 10 NGOs met monthly as part of the AATSEC forum. Every 3 months, the group attempted to meet with its Bangladeshi and Nepalese counterparts. Calcutta NGOs such as Sanlaap also were seeking to build stronger working relationships with local police.

NGOs also have demanded that special ITPA courts for speedy resolution of cases allow videotaped testimony so that underage victims need not be summoned back for trial.

In February, the NHRC held a 2-day program for judges, law enforcement, and government officials on trafficking, and in August, the NHRC released a study on the trafficking of women, recommending the creation of a national anti-trafficking agency. According to NGOs, there were significant improvements in investigations and arrests of traffickers in Mumbai, New Delhi, Chennai, Hyderabad, and Calcutta. There were roughly 80 NGOs in 10 states working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC included representatives from the NCW, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

Persons with Disabilities

The Persons with Disabilities Act provides equal rights to all persons with disabilities; however, advocacy organizations admitted that its practical effects have so far been minimal, in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government. Widespread discrimination occurred against persons with physical and mental disabilities in employment, education, and in access to health care. Neither law nor regulation required accessibility for persons with disabilities. Government buildings, educational establishments, and public spaces throughout the country have almost no provisions for wheelchair access.

Mental health care was a problem. Hospitals were overcrowded and served primarily as a dumping ground for the mentally handicapped. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with inadequate sanitary conditions. In July, the NHRC announced that insufficient attention was paid to issues of the mentally handicapped and called for better enforcement of national laws. At year's end, no action was taken on the 2001 NHRC recommendation to remove all persons with mental illness from jails.

The Government provided special arrangements for disabled voters during the April-May parliamentary elections, but was not able to meet needs on a countrywide basis. Pursuant to a Supreme Court directive, the Election Department attempted to make all polling places accessible by providing wooden ramps. However, disabled rights activists criticized the Election Commission's lack of compliance and delay, and were physically prevented from protesting outside of the Commission's office in April. The Government provided access to most polling stations in larger cities like New Delhi, but access in rural areas was uneven.

The Disabled Division of the Ministry of Welfare delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly raised public awareness of the rights of persons with disabilities.

The National Commission for Persons with Disabilities (NCPD) had the responsibility to recommend to the Government specific programs to eliminate inequalities in status, facilities, and opportunities for disabled persons, review the status and condition of institutions delivering services and submit annual reports with recommendations. In February, the Government constituted a new NCPD headed by a former Governor, Sunder Singh Bhandari. In April, the Rajasthan High Court directed the State Government to promote the establishment of special schools for disabled children in both the public and private sectors; however, a majority of teachers have not been trained on how to meet the special needs of disabled children. Also, the National Center for Promotion of Employment for Disabled People stated in September that there was a shortage of educational institutions for the disabled and that the admissions process was marked by harassment.

In July, disabled rights NGOs reported that the disabled were not able to obtain duty free imports of artificial limbs, crutches, wheelchairs, walking frames, and other medical needs. They also claimed that no effort was being made to make railway compartments, platforms, and railways accessible to the disabled, and noted that less than 1 percent of the disabled were employed.

The Equal Opportunities, Protection of Rights and Full Participation Act of 1995 stipulates that 3 percent of all education slots be reserved for the disabled; however, statistics showed that only about 1 percent of students were disabled. The Times Insight Group reported in September that most colleges and universities did not know about this law.

The Government provided special railway fares, education allowances, scholarships, customs exemptions, and budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled; however, implementation of these entitlements was not comprehensive. Parents of children with developmental disabilities lobbied the Government for a special security fund; however, no action was taken on this request at year's end.

In March, disabled rights activists reported that airlines and airports were not providing adequate accommodations for the disabled. These included failure to adjust toilets, eating and water facilities, and accessible parking for the physically impaired.

National/Racial/Ethnic Minorities

The Constitution and the 1955 Civil Rights Act outlaws the practice of untouchability, which discriminates against Dalits and other people defined as Scheduled Castes; however, such discrimination remained an important aspect of life. Despite longstanding efforts by the Government to eliminate the discriminatory aspects of caste, the practice has remained, and widespread discrimination based on the caste system occurred throughout the country.

The Constitution gives the President the authority to identify historically disadvantaged castes, Dalits, and tribal people (members of indigenous groups historically outside the caste system). These "scheduled" castes, Dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of active debate. According to the 2001 census, scheduled castes, including Dalits, made up 16 percent (166.6 million) of the population, and scheduled tribes were 8 percent (84.3 million) of the country's population.

Many rural Dalits worked as agricultural laborers for caste landowners without remuneration. The majority of bonded laborers were Dalits (see Section 6.c.). Dalits, among the poorest of citizens, generally did not own land, and often were illiterate. They faced significant discrimination despite laws to protect them, and often were socially prohibited from using the same wells and from attending the same temples as caste Hindus, and from marrying caste Hindus. In addition, they faced social segregation in housing, land ownership, and public transport. Dalits were malnourished, lacked access to health care, worked in poor conditions (see Section 6.e.), and continued to face social ostracism. NGOs reported that crimes committed by higher caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute vigorously such cases or because the crimes were unreported by the victims, who feared retaliation.

On May 16, approximately 100 Dalit houses in the village of Kalapatti in Tamil Nadu were set on fire during the night, just days after the Government announced the general election results. Upper caste residents who blamed Dalits for their candidates' loss reportedly committed the attacks. In July, police in Tamil Nadu reportedly used excessive force to target Dalits while responding to riots at a religious festival. The injured included approximately 20 Dalits, 8 of whom required hospitalization. The riot broke out when upper-caste Hindus forcefully barred Dalits from participating in the festival.

Christians historically rejected the concept of caste; however, because many Christians descended from low caste or Dalit families, many continued to suffer the same social and economic limitations, particularly in rural areas. Low caste Hindus who converted to Christianity lost their eligibility for affirmative action programs. Those who became Buddhists or Sikhs did not. In some states, government jobs were reserved for Muslims of low caste descent.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and provides for stiff penalties for offenders; however, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase.

Intercaste violence claimed hundreds of lives; it was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce rigid caste lines in all social settings led to episodes of vigilante retribution. While much more rare in urban settings, examples of intolerance occurred regularly in rural parts of the country. Complicated social and ethnic divisions in society created severe localized discrimination. For example, in July, 30 men from the Yadav community in Madhya Pradesh, with the backing of the village council, allegedly gang raped three Dalit women. The gang rape is thought to have been in response to the elopement of a girl from the Yadav community with a Dalit boy. Police arrested 8 persons, and cases have been filed against 20 unidentified persons. A day after the incident, a village leader allegedly stripped a Dalit woman in public view. The Madhya Pradesh Chief Minister indicated she was considering ordering a community fine on the entire village where residents were mute spectators to these acts; however, no action reportedly was taken.

Discrimination against Dalits covered the entire spectrum of social, economic, and political activities, from withholding of rights to killings. In January, Dalits participating in a national Dalit Swadhikar rally in Rajasthan were denied entry to the Shrinathji temple in Nathdwara. In May, a Dalit woman who had filed a complaint at the Aurangabad police station, died from severe burns, after allegedly being removed from the police station and set on fire by the officer in charge. The officer was suspended and charged with murder.

The BJP government in Rajasthan has selectively withdrawn a large number of cases related to communal conflicts filed during the tenure of the previous Congress-led government. Most cases were filed against the Hindu extremist Rashtriya Swayamsevak Sangh and other Hindu nationalist groups. However, cases filed against minority groups involved in the same incidents have not been withdrawn.

There were some positive developments for Dalits during the year. In April, the Orissa state government reportedly began paying compensation to victims under the Scheduled Caste and Tribes (Prevention of Atrocities) Act, 1989, and Rules 1995

following intervention by the NHRC. In January, the first Dalit woman was elected as mayor of the Chandigarh Municipal Corporation. In July, the Finance Minister added an additional \$10 million (RS 5 billion) to the National Minorities Development and Finance Corporation.

Indigenous People

The Innerline Regulations enacted by the British in 1873 provide the basis for safeguarding tribal rights in most of the northeastern border states, and in practice, the Regulations are followed. These regulations prohibit any person, including citizens from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in the tribal areas without approval from tribal authorities who, depending on the region, were elected or nominated by their constituency.

Data from the 2001 census published in September indicated that 8.2 percent of the population belonged to scheduled tribes. According to the ICITP, 80 percent of the tribal population lived below the poverty level, and more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (see Section 5, Trafficking, and Section 6.c.). The 1955 Protection of Civil Rights Act prescribed special courts to hear complaints of atrocities committed against tribal people. In February, the Supreme Court decided that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 still applied to crime victims who were members of a scheduled tribe and caste, even if they had converted. The decision was in response to an appeal of a Kerala High Court decision, which held that because a rape victim had converted to Christianity, she could not receive the Act's protection.

Despite constitutional safeguards, the rights of indigenous groups in the eastern parts of the country often were ignored. NGOs reported that in 2001, 4,121 cases of crimes against scheduled tribes were reported to the NHRC throughout the country. In recent years, crime against scheduled tribes has risen. In 1998, 725 cases were reported, as opposed to 6,774 in 2002, the last year for which data were available. Indigenous peoples suffered discrimination and harassment, were deprived of their land, and subjected to torture and to arbitrary arrest.

There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. In July, forest department staff ignored a Supreme Court order and forcefully evacuated a tribal village in the Betul district of Madhya Pradesh. Persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal persons occurred in many states (see Section 1.c.). For example, in May, a tribal woman was forced to parade naked in Orissa because she was suspected of being a witch. A crowd dragged the woman into the street, undressed her, forced her to eat human excreta, and tried to hang her from a tree. No action was taken against those responsible.

Numerous tribal movements demanded the protection of land and property rights. The Jharkhand Movement in Bihar and the Bodo Movement in Assam reflected deep economic and social grievances among indigenous peoples. As a result of complaints, largely tribal-populated states were created in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh. Authorities provided local autonomy to some tribal people in the northeast.

Other Societal Abuses and Discrimination

Section 377 of the Penal Code punishes acts of sodomy, buggery and bestiality; however, the law is commonly used to target, harass, and punish lesbian, gay, bisexual, and transgender persons. Human rights groups stated that gay and lesbian rights were not viewed as human rights in the country.

Gays and lesbians faced discrimination in all areas of society, including family, work, and education. Activists reported that in most cases, homosexuals who do not hide their orientation were fired from their jobs. Homosexuals also faced physical attacks, rape, and blackmail. Police have committed these crimes and used the threat of Section 377 to ensure the victim did not report the incidents. The overarching nature of Section 377 allowed police to arrest gays and lesbians virtually at will, and officers used the threat of arrest to ensure no charges would be filed against them.

On September 2, the Delhi High Court dismissed a legal challenge to Section 377 of the Indian Penal Code. Plaintiffs filed the case in June 2001 after police arrested four gay and lesbian rights workers at the NAZ Foundation International and National Aids Control Office premises in Lucknow, Uttar Pradesh, for conspiring to commit "unnatural sexual acts" and possessing "obscene material" which was reportedly safer-sex educational materials construed as pornography. The AIDS workers were kept in captivity for more than 45 days and were refused bail twice before it was granted by the High Court. The Court ruled that the validity of the law could not be challenged by anyone "not affected by it," as the defendants had not been charged with a sex act prohibited by law.

Homosexuals have been detained in clinics for months and subjected to treatment against their will. The NAZ Foundation filed a petition with the NHRC regarding a case in which a man was subjected to shock therapy. The NHRC declined to take the case, as gay and lesbian rights were not under its purview.

Authorities estimated that HIV/AIDS had infected approximately 4½ million persons, and there was significant societal

discrimination against persons with the disease. According to the ILO, 70 percent of persons suffering from HIV/AIDS faced discrimination.

In Ahmedabad in April, an HIV positive woman committed suicide at her home after allegedly being harassed by her co-workers.

HRW said that many doctors refused to treat HIV-positive children, and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing.

In January, a Mumbai High Court ruling determined that HIV-positive persons could not be fired. There was no information available on the implications of this ruling at year's end.

Section 6 Worker Rights

a. Right of Association

The Constitution provides for the right of association, and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban non-industrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million unionized workers, some 80 percent were members of unions affiliated with 1 of the 5 major trade union centrals.

In practice, legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. The authorities generally prosecuted and punished those persons responsible for intimidation or suppression of legitimate trade union activities, when the victims were members of nationally organized unions. Unaffiliated unions were not able, in all instances, to secure for themselves the protections and rights provided by law. Union membership was rare in the informal sector.

The Trade Union Act prohibits discrimination against union members and organizers, and employers were penalized if they discriminated against employees engaged in union activities.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended worker interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine wages. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act. The act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Kerala High Court declared in 2002 that all general strikes were illegal and that all organizers of protests would be liable for losses caused by shutdowns. The Supreme Court upheld the verdict, drawing attention to the difference between a complete shutdown of all activities and a general strike. While it is likely that the ruling was introduced in relation to political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes. In August, the Supreme Court declared all strikes by government employees to be illegal; however, in practice this was not enforced.

There are seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily is limited to employees, and such entry restrictions applied to union organizers. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not vigorously pursue efforts to organize private-sector employees in the years since EPZs were established. Women constituted the majority of the work force in the EPZs. The International Confederation of Free Trade Unions reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard

working conditions would result in their being fired.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or bonded labor, including by children; however, such practices remained widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor by adults and children. Offenders may be sentenced up to 3 years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective due to inadequate resources and to societal acceptance of bonded or forced labor. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children (see Section 6.d.). According to a Government report, more than 85 percent of bonded laborers belonged to the scheduled castes and scheduled tribes.

Some press reports in 2002 indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began planning and implementing rehabilitation programs. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic in illegal Bangladeshi immigrants was a source of bonded labor (see Section 5, Trafficking).

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (see Section 5, Trafficking). According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Section 1.c.). Devadasis, defined as prepubescent girls given to a Hindu deity or temple as "servants of God," were taken from their families and required to provide sexual services to priests and high caste Hindus. Reportedly many of the girls eventually were sold to urban brothels (see Section 5).

d. Prohibition of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor; however, this prohibition was not effectively enforced, and forced child labor was a problem. The law prohibits the exploitation of children in the workplace; however, NHRC officials have admitted that implementation of existing child labor laws was inadequate, that administrators were not vigilant, that children were particularly vulnerable to exploitation, and that the Commission was focusing on the adequacy of existing legislation.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in "hazardous industries," which included passenger goods and mail transport by railway. In occupations and processes in which child labor is permitted, work by children was permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly. In addition to industries that utilize forced or indentured child labor (see Section 6.c.), there was evidence that child labor was used in the following industries: Hand-knotted carpets; gemstone polishing; leather goods; and sporting goods.

The Government assisted working children through the National Child Labor Project, which was established in more than 3,700 schools. Government efforts to eliminate child labor affected only a small fraction of children in the workplace. A Supreme Court decision increased penalties for employers of children in hazardous industries to \$430 (Rs 20,000) per child employed, and established a welfare fund for formerly employed children. The Government is required to find employment for an adult member of the child's family or pay \$108 (Rs 5,000) to the family. According to the South Asian Coalition on Child Servitude, the authorities were pursuing some 6,000 cases against employers.

Estimates of the number of child laborers varied widely. The Government census of 1991 put the number of child workers at 11 million. The ILO estimated the number at 44 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, worked as domestic servants, or employed.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children sent from their homes to work because their parents could not afford to feed them, or in order to pay off a debt incurred by a parent or relative, had no choice. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there were as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions. In 2000, the Government issued a notification prohibiting government employees from hiring children as domestic help.

Those employers who failed to abide by the law were subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace. For example, in June, the Lucknow Bench of the Allahabad High Court directed nine children working with the Great Roman Circus to be released and handed over to their parents. The petitioner had alleged that the circus owner was making the children work in violation of the law. At year's end, the case was still in pending.

In 2003, the Labor Commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories. In January, HRW interviewed children in three states, Karnataka, Uttar Pradesh, and Tamil Nadu, and found that production of silk thread still depended on bonded children.

The enforcement of child labor laws was the responsibility of the state governments; however, enforcement was inadequate, especially in the informal sector in which most children were employed. The continuing prevalence of child labor was attributed to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families.

Employers in some industries took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets known produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to use voluntarily a government-originated label to signify adherence to the code of conduct. However, the CEPC stated that even with its programs it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The Government also cooperated with UNICEF, United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP), and the ILO in its efforts to eliminate child labor.

The Government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children were removed from work and received education and stipends through IPEC programs since they began in the country in 1992. The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases. Press reports said that a Madurai NGO had rescued 33 children who had been sold into slave labor during the year.

e. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. The Factories Act mandates an 8-hour workday, a 49-hour workweek, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, they were not observed in less economically stable industries.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated.

State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors, and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor.

Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines, and opencast mines were to be bulldozed and reforested. However, these rules seldom were obeyed. In June, flooding of a mine killed 17 miners in Andhra Pradesh.

Safety conditions generally tended to be better in the EPZs than in the manufacturing sector.

The law does not provide workers with the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.